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- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies
-

Minute Action

AGENDA ITEM: 12

Date: September 2, 2009

Subject: Cooperative Agreement No. C10047 with Caltrans for the I-10/Tippecanoe Interchange Project Plans, Specifications, and Estimates (PS&E)

Recommendation: * Approve Cooperative Agreement No. C10047 with Caltrans for the I-10/Tippecanoe PS&E.

Background: This is a new cooperative agreement. Under state law, SANBAG and Caltrans are required to enter into cooperative agreements for all phases of project development and construction of projects lead by SANBAG on the state highway system. This cooperative agreement is a legally binding contract that defines the responsibilities of SANBAG and Caltrans as it relates to the PS&E phase of the Interstate 10/Tippecanoe Interchange Project, a project funded by Measure I and various other federal and state funds. PS&E support costs for a PS&E consultant contract to be approved by the Board of Directors in the future will be funded by SANBAG through Measure I in the amount of approximately \$800,000 and Federal TEA-21 Demonstration funds for \$3.2 million.

Financial Impact: This item is a cooperative agreement only that outlines roles and responsibilities between Caltrans and SANBAG on the project and does not have a direct financial impact.

Reviewed By: This item was reviewed and unanimously recommended for approval by the Major Projects Committee on August 13, 2009. SANBAG Counsel has reviewed and approved the agreement as to form.

Responsible Staff: Garry Cohoe, Director of Freeway Construction

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Approved
Board of Directors

Date: September 2, 2009

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

SANBAG Contract No. C10047

by and between

San Bernardino County Transportation Authority

and

The California Department of Transportation

for

PS&E Cooperative Agreement

FOR ACCOUNTING PURPOSES ONLY

☐ Payable Vendor Contract # _____ Retention: ☒ Original
☐ Receivable Vendor ID _____ ☐ Yes _____ % ☐ No ☐ Amendment

Notes: Cooperative Agreement with Caltrans for I-10/Tippecanoe Interchange PS&E phase

Original Contract:	\$ <u>0</u>	Previous Amendments Total:	\$ _____
Contingency Amount:	\$ <u>0</u>	Previous Amendments Contingency Total:	\$ _____
		Current Amendment:	\$ _____
		Current Amendment Contingency:	\$ _____

Contingency Amount requires specific authorization by Task Manager prior to release.

Contract TOTAL → \$ 0

↓ Please include funding allocation for the original contract or the amendment.

Task	Cost Code	Funding Sources	Grant ID	Amounts
_____	_____	_____	_____	\$ _____
_____	_____	_____	_____	\$ _____
_____	_____	_____	_____	\$ _____

Original Board Approved Contract Date: 9/2/09 Contract Start: 9/2/09 Contract End: 12/31/14

New Amend. Approval (Board) Date: _____ Amend. Start: _____ Amend. End: _____

If this is a multi-year contract/amendment, please allocate budget authority among approved budget authority and future fiscal year(s)-unbudgeted obligations:

Approved Budget Authority →	Fiscal Year: <u>09/10</u> \$ <u>0</u>	Future Fiscal Year(s) - Unbudgeted Obligation →	\$ <u>0</u>
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Is this consistent with the adopted budget? ☐ Yes ☐ No

If yes, which Task includes budget authority? _____

If no, has the budget amendment been submitted? ☐ Yes ☐ No

CONTRACT MANAGEMENT

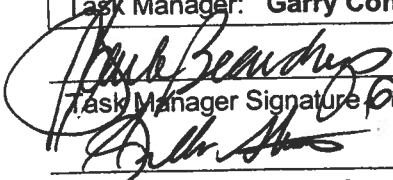
Please mark an "X" next to all that apply:

☒ Intergovernmental ☐ Private ☐ Non-Local ☐ Local ☐ Partly Local

Disadvantaged Business Enterprise: ☐ No ☐ Yes _____ %

Task Manager: **Garry Cohoe**

Contract Manager: **Khalil Saba**


Task Manager Signature for Garry Cohoe

8/24/09
Date


Contract Manager Signature

FOR K.S.

8/24/09
Date


Chief Financial Officer Signature Date

08-SBd-10-PM 25.3/27.3
I-10/Tippecanoe Avenue
I/C Improvements, Bridge Widening
And Street Improvements
In the cities of SBd and Loma Linda
EA 448100
District Agreement No. 8-1450

**PS&E
COOPERATIVE AGREEMENT**

This AGREEMENT, entered into effective on _____, 2009, is between the STATE OF CALIFORNIA, acting by and through its Department of Transportation, referred to herein as "STATE," and the

SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY, a public
corporation of the State of California, referred to
herein as "AUTHORITY."

RECITALS

1. STATE and AUTHORITY, pursuant to Streets and Highways Code sections 114 and 130, are authorized to enter into a Cooperative Agreement for improvements to the State Highway System (SHS) within AUTHORITY's jurisdiction.
2. AUTHORITY desires to improve the existing interchange at Interstate 10 (I-10) and Tippecanoe Avenue including ramp improvements, bridge widening, and street improvements, referred to herein as "PROJECT."
3. AUTHORITY is willing to be responsible for one hundred percent (100%) of all costs for Plans, Specifications, and Estimates (PS&E) activities using Demonstration Transportation Equity Act for the 21st Century (DEMO-TEA 21) funding source in the amount of \$3,200,000 to be matched with Measure I funding source in the amount of \$800,000. The PROJECT estimated cost is \$4,000,000 as shown on Exhibit A, attached hereto and made a part of this Agreement. If it becomes necessary for an increase in PROJECT funding, said increase will be paid in full by AUTHORITY. Funds for the above-mentioned PROJECT cost will be secured by AUTHORITY from other agencies.
4. The costs of STATE's Independent Quality Assurance (IQA) of PROJECT PS&E activities will be borne by STATE.

5. STATE funds will not be used to finance any of the PS&E support costs except as set forth in this Agreement.
6. Project Approval and Environmental Document for PROJECT was covered in a prior Cooperative Agreement executed by STATE and AUTHORITY on February 4, 2004, (District Agreement No. 8-1229) and amended on January 28, 2009 (District Agreement No. 8-1229 A/1).
7. The terms of this Agreement shall supersede any inconsistent terms of any prior Memorandum of Understanding (MOU) or agreement relating to PROJECT.
8. PROJECT right of way, landscape maintenance, and construction will be the subject of a separate future agreement or agreements.
9. The parties now define herein below the terms and conditions under which PROJECT is to be designed and financed.

SECTION I

AUTHORITY AGREES:

1. AUTHORITY is willing to be responsible for one hundred percent (100%) of all PS&E support costs using DEMO-TEA 21 funding source in the amount of \$3,200,000 and local matching Measure I funding source in the amount of \$800,000. The PROJECT estimated cost is \$4,000,000 as shown on Exhibit A, attached hereto and made a part of this Agreement. If it becomes necessary for an increase in PROJECT funding, said increase will be paid in full by AUTHORITY. Funds for the above-mentioned PROJECT cost will be secured by AUTHORITY from other agencies.
2. The costs of STATE's IQA of PROJECT PS&E activities will be borne by STATE.
3. To not use STATE funds for any PROJECT PS&E support costs except as set forth in this Agreement.
4. All PROJECT work performed by AUTHORITY, or performed on AUTHORITY's behalf, shall be performed in accordance with all State and Federal laws, regulations, policies, procedures, and standards that STATE would normally follow. All such PROJECT work shall be submitted to STATE for STATE's review, comment, and concurrence at appropriate stages of development.
5. All PROJECT work, except as set forth in this Agreement, is to be performed by AUTHORITY. Should AUTHORITY request that STATE perform any portion of PROJECT work, except as otherwise set forth in this Agreement, AUTHORITY shall first agree to reimburse STATE for such work pursuant to an amendment to this Agreement or a separate executed agreement.

6. To have a detailed PS&E prepared, at no cost to STATE, and to submit to STATE for STATE's review and concurrence at appropriate stages of development. The final PS&E for PROJECT shall be signed on behalf of AUTHORITY by a Civil Engineer registered in the State of California. AUTHORITY agrees to provide landscape plans prepared and signed by a licensed California Landscape Architect.
7. To permit STATE to monitor, participate, and oversee the selection of personnel who will prepare the PS&E engineering services for PROJECT. AUTHORITY agrees to consider any request by STATE to discontinue the services of any personnel considered by STATE to be unqualified on the basis of credentials, professional expertise, failure to perform, and/or other pertinent criteria.
8. AUTHORITY shall include a "conflict of interest" requirement in the PROJECT design consultant contract(s) that prohibits the design consultant from being employed or under contract to the future PROJECT construction contractor.
9. Personnel who prepare the PS&E shall be made available to STATE, at no cost to STATE, through completion of PROJECT construction to discuss problems which may arise during PS&E, Right of Way and Construction phases of the PROJECT, and/or to make design revisions for contract change orders.
10. To make written application to STATE for necessary encroachment permits authorizing entry of AUTHORITY onto the SHS right of way to perform surveying and other investigative activities required for preparation of the PS&E. AUTHORITY shall also require AUTHORITY's consultants and contractor to make written application to STATE for the same necessary encroachment permits.
11. To identify and locate all utility facilities within the area of PROJECT as part of the design responsibility for PROJECT. All utility facilities not relocated or removed in advance of construction shall be identified on the PS&E for PROJECT.
12. If any existing utility facilities conflict with the construction of PROJECT or violate STATE's encroachment policy, AUTHORITY shall make all necessary arrangements with the owners of such facilities for their timely accommodation, protection, relocation, or removal.

The costs for the PROJECT's positive identification and location, protection, relocation, or removal of utility facilities whether inside or outside STATE's right of way shall be determined in accordance with Federal and California laws and regulations, and STATE's policies and procedures, standards, practices, and applicable agreements including, but not limited to, Freeway Master Contracts.
13. To furnish evidence to STATE, in a form acceptable to STATE, that arrangements have been made for the protection, relocation, or removal of all conflicting facilities within the SHS right of way and that such work will be completed prior to the award of the contract

to construct PROJECT or as covered in the PS&E for said contract. This evidence shall include a reference to all required SHS encroachment permits.

14. To be responsible for, and to the STATE's satisfaction, the investigation of potential hazardous material sites within and outside of the existing SHS right of way that could impact PROJECT as part of performing any work pursuant to this Agreement. If AUTHORITY discovers hazardous material or contamination within the PROJECT study area during said investigation, AUTHORITY shall immediately notify STATE.
15. If AUTHORITY desires to have STATE advertise, award, and administer the construction contract for PROJECT, AUTHORITY shall provide STATE with acceptable plans in a format acceptable to STATE. Reimbursement to STATE for costs incurred by STATE to advertise, award, and administer the construction contract for PROJECT will be covered in the separate Cooperative Agreement.
16. All aerial photography and photogrammetric mapping shall conform to STATE's current standards.
17. A copy of all original survey documents resulting from surveys performed for PROJECT, including original field notes, adjustment calculations, final results, and appropriate intermediate documents, shall be delivered to STATE and shall become property of STATE. For aerial mapping, all information and materials listed in the document "Materials Needed to Review Consultant Photogrammetric Mapping" shall be delivered to STATE and shall become property of STATE.
18. All original recorded land title documents created by PROJECT shall be delivered to STATE and become property of STATE.
19. To submit to STATE a list of STATE horizontal and vertical control monuments that will be used to control surveying activities for PROJECT.

SECTION II

STATE AGREES:

1. At no cost to AUTHORITY, to provide IQA of all AUTHORITY's work necessary for completion of the PS&E activities for PROJECT done by AUTHORITY, including, but not limited to, investigation of potential hazardous material sites undertaken by AUTHORITY or its designee, and provide prompt reviews, comments, concurrence, and/or approvals as appropriate, of submittals by AUTHORITY, while cooperating in timely processing of documents necessary for completion of the PS&E for PROJECT.
2. Upon proper application by AUTHORITY and by AUTHORITY's contractor, to issue, at no cost to AUTHORITY and AUTHORITY's contractor, the necessary encroachment

permits for required work within SHS right of way as more specifically defined elsewhere in this Agreement.

SECTION III

IT IS THEREFORE MUTUALLY AGREED:

1. All obligations of STATE under the terms of this Agreement are subject to the appropriation of resources by the Legislature, State Budget Act authority and the allocation of funds by the California Transportation Commission (CTC).
2. The parties to this Agreement understand and agree that STATE's IQA is defined as providing STATE policy and procedural guidance through to completion of the PROJECT PS&E phase administered by AUTHORITY. This guidance includes prompt reviews by STATE to assure that all work and products delivered or incorporated into the PROJECT by AUTHORITY conform with then existing STATE standards. IQA does not include any PROJECT related work deemed necessary to actually develop and deliver the PROJECT, nor does it involve any validation to verify and recheck any work performed by AUTHORITY and/or its consultants or contractors and no liability will be assignable to STATE, its officers and employees by AUTHORITY under the terms of this Agreement or by third parties by reason of STATE's IQA activities. All work performed by STATE that is not direct IQA shall be chargeable against PROJECT funds as a service for which STATE will invoice its actual costs and AUTHORITY will pay or authorize STATE to reimburse itself from then available PROJECT funds pursuant to an amendment to this Agreement authorizing such services to be performed by STATE.
3. The Project Study Report (PSR) for PROJECT, approved on August 27, 2002, is by this reference, made an express part of this Agreement. If there is a conflict of terms between the DPR and this Agreement, the terms of this Agreement shall prevail.
4. The basic design features shall comply with those addressed in the approved PSR, unless modified as required for completion of the PROJECT's environmental documentation and/or if applicable, requested by the Federal Administration (FHWA).
5. The design and preparation of related technical reports/studies for PROJECT shall be performed in accordance with all applicable Federal and STATE standards and practices current as of the date of performance. Any exceptions to applicable design standards shall first be considered by STATE for approval via the processes outlined in STATE's Highway Design Manual and appropriate memoranda and design bulletins published by STATE. In the event that STATE proposes and/or requires a change in design standards, implementation of new or revised design standards shall be done as part of the work on PROJECT in accordance with STATE's current Highway Design Manual Section 82.5, "Effective Date for Implementing Revisions to Design Standards." STATE shall consult with AUTHORITY in a timely manner regarding the effect of proposed and/or required changes on PROJECT.

6. If, during preparation of the PS&E, performance of right of way activities, or performance of PROJECT construction, new information is obtained which requires additional environmental documentation to comply with the California Environmental Quality Act (CEQA) and if applicable, the National Environmental Policy Act (NEPA), this Agreement will be amended to include completion of these additional tasks by AUTHORITY.
7. AUTHORITY agrees to obtain, as a PROJECT cost, all necessary PROJECT permits, agreements, and/or approvals from appropriate regulatory agencies, unless the parties otherwise mutually agree in writing. If parties agree in writing that STATE is responsible for obtaining said project permits, agreements, and/or approvals from the appropriate regulatory agencies, then those said costs shall be a PROJECT cost.
8. AUTHORITY shall be fully responsible for complying with and implementing any and all environmental commitments set forth in the environmental documentation, permits, agreements, and/or approvals for PROJECT. The costs of said compliance and implementation shall be a PROJECT cost.
9. If there is a legal challenge to the environmental documentation, including investigative studies and/or technical environmental report(s), permits, agreements, and/or approval(s) for PROJECT, all legal costs associated with those said legal challenges shall be a PROJECT cost.
10. All administrative reports, studies, materials, and documentation, including, but not limited to, all administrative drafts and administrative finals, relied upon, produced, created or utilized for PROJECT will be held in confidence pursuant to Government Code section 6254.5(e). The parties agree that said material will not be distributed, released or shared with any other organization, person or group other than the parties' employees, agents and consultants whose work requires that access without the prior written approval of the party with the authority to authorize said release and except as required or authorized by statute or pursuant to the terms of this Agreement.
11. The party that discovers hazardous materials (HM) will immediately notify the other party(ies) to this Agreement.

HM-1 is defined as hazardous material (including but not limited to hazardous waste) that requires removal and disposal pursuant to federal or state law, whether it is disturbed by PROJECT or not.

HM-2 is defined as hazardous material (including but not limited to hazardous waste) that may require removal and disposal pursuant to federal or state law, only if disturbed by PROJECT.
12. STATE, independent of PROJECT, is responsible for any HM-1 found within existing SHS right of way. STATE will undertake HM-1 management activities with minimum impact to PROJECT schedule and will pay all costs associated with HM-1 management activities.

AUTHORITY, independent of PROJECT, is responsible for any HM-1 found outside existing SHS right of way. AUTHORITY will undertake HM-1 management activities with minimum impact to PROJECT schedule and will pay all costs for HM-1 management activities.

If HM-2 is found within the limits of PROJECT, the public agency responsible for advertisement, award, and administration (AAA) of the PROJECT construction contract will be responsible for HM-2 management activities. Any management activity cost associated with HM-2 is a PROJECT construction cost.

13. Management activities associated with either HM-1 or HM-2 include, without limitation, any necessary manifest requirements and designation of disposal facility.
14. STATE's acquisition of or acceptance of title to any property on which any hazardous material is found will proceed in accordance with STATE's policy on such acquisition.
15. A separate Cooperative Agreement or agreements will be required to address right of way, landscape maintenance, and to cover responsibilities and funding for the construction phase of PROJECT.
16. Nothing within the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not parties to this Agreement or to affect the legal liability of either party to the Agreement by imposing any standard of care with respect to the development, design, construction, operation, or maintenance of the SHS and public facilities different from the standard of care imposed by law.
17. Neither STATE nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by AUTHORITY under or in connection with any work, authority or jurisdiction conferred upon AUTHORITY or arising under this Agreement. It is understood and agreed that, AUTHORITY will fully defend, indemnify and save harmless STATE and all its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by AUTHORITY under this Agreement.
18. Neither AUTHORITY nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by STATE, under or in connection with any work, authority or jurisdiction conferred upon STATE or arising under this Agreement. It is understood and agreed that, STATE will fully defend, indemnify and save harmless AUTHORITY and all its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by STATE under this Agreement.

19. Prior to the commencement of any work or award of any contract pursuant to this Agreement, either STATE or AUTHORITY may terminate this Agreement by written notice to the other party.
20. No alteration or variation of the terms of this Agreement shall be valid unless made by a formal amendment executed by the parties hereto and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.
21. This Agreement shall terminate upon the satisfactory completion of all post-PROJECT construction obligations of AUTHORITY and the delivery of required PROJECT construction documents, with concurrence of STATE, or on December 31, 2014, whichever is earlier in time, except that the ownership, operation, maintenance, indemnification, environmental commitments, legal challenges, and claims articles shall remain in effect until terminated or modified, in writing, by mutual agreement or the appropriate statute of limitations for any claim or legal challenge has passed. Should any construction-related or other claims arising out of PROJECT asserted against one of the parties, the parties agree to extend the fixed termination date of this Agreement, until such time as the construction related or other claims are settled, dismissed or paid.

SIGNATURES ON FOLLOWING PAGE

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY

WILL KEMPTON
Director

By: _____
RAYMOND W. WOLFE, PhD
District Director

By: _____
Paul M. Eaton, President
Board of Directors

APPROVED AS TO FORM AND
PROCEDURE:

Attest: _____
VICKI WATSON
Board Secretary

By: _____
Attorney,
Department of Transportation

By: _____
JEAN-RENE BASLE
AUTHORITY's Counsel

CERTIFIED AS TO FUNDS:

By: _____
District Budget Manager

CERTIFIED AS TO FINANCIAL
TERMS AND POLICIES:

By: _____
Accounting Administrator

EXHIBIT A**COST ESTIMATE**

	STATE	FEDERAL	LOCAL	
PHASE		DEMO-TEA 21	MEASURE I	TOTAL
PS&E	0%	\$3,200,000	\$800,000	\$4,000,000
TOTAL	0%	\$3,200,000	\$800,000	\$4,000,000

- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 13

Date: September 2, 2009

Subject: Hunts Lane/UPRR Grade Separation Project

Recommendation:* Approve pipeline relocation Agreement No. C10005 with SFPP, L.P, for the final design and construction relocation of Kinder Morgan's existing petroleum product pipeline in the amount of \$1,451,307, which represents Kinder Morgan's *estimated* total costs for relocating the pipeline. The agreement provides that Kinder Morgan will invoice SANBAG if their *actual* costs exceed the *estimated* costs and reimburse SANBAG if their *actual* costs are less than the *estimated* costs.

Background: This is a new contract. SANBAG is nearing completion of the Plans, Specifications and Estimates (PS&E) phase of the Hunts Lane grade separation over Union Pacific Rail Road (UPRR) in the Cities of Colton and San Bernardino. Per the design, the proposed southern abutment of the grade separation structure interferes with an existing 20" petroleum product pipeline. To facilitate construction of the proposed bridge, the pipeline must be relocated to eliminate the conflict. The length of existing pipeline that needs to be relocated is entirely within an easement held by the pipeline owner, Kinder Morgan, in UPRR right of way. Accordingly, the relocation costs are the responsibility of SANBAG as the project proponent.

Approved
Board of Directors

Date: September 2, 2009

Moved: _____ Second: _____

In Favor: _____ Opposed: _____ Abstained: _____

Witnessed: _____

BRD0909h-gc

Attachments: C10005, BRD0909h1-gc

SANBAG's design consultant on the PS&E package coordinated with Kinder Morgan to identify the pipeline conflict and propose a suitable relocation. On April 2, 2008, the SANBAG Board authorized the start of the utility relocations. On June 3, 2009, the board approved \$477,000 for utility relocation design. From the \$477,000 allocated to utility relocation design, \$66,611.70 has been paid to Kinder Morgan for preparing the preliminary relocation plans. The preliminary relocation plans were approved by SANBAG's design consultant, allowing the final design to commence.

The subject pipeline relocation agreement is to define the responsibilities of the parties for final engineering and construction of the pipeline relocation, and to authorize budget expenditure for deposit with SLPP. The deposit includes the estimated costs for final engineering design, construction, inspection, labor, administrative overhead and procurement of pipeline materials and a construction contractor. The cost estimate provided by SFPP includes a 10% contingency. The total estimated cost is \$1,451,307, which includes \$308,649 for materials, engineering and labor, and \$1,142,658 for construction. Backup documentation for SFPP's cost estimate is included with the attached draft agreement. The final agreement will be reviewed and approved as to form by SANBAG Counsel prior to presentation to the Board for approval.

As the requested budget is for a deposit to SFPP for reimbursement of estimated costs, SANBAG would be due a refund following relocation of the pipeline if SFPP's actual costs are less than their estimated costs. Likewise, if the actual costs are more than the estimated costs, SFPP will invoice SANBAG for the difference following completion of the pipeline relocation. To mitigate the risk of cost overruns, SANBAG staff will monitor Kinder Morgan's expenses on a monthly basis to identify potential cost overruns as early as possible and help Kinder Morgan establish recovery plans as necessary to manage project cost increases.

Financial Impact: The action is consistent with the 2009/10 Fiscal Year Budget, TN 87010000.

Reviewed By: This item was reviewed and unanimously recommended for approval by the Major Projects Committee on July 9, 2009. SANBAG Counsel has reviewed and approved the agreement as to form.

Responsible Staff: Garry Cohoe, Director of Freeway Construction

SANBAG Contract No. C10005

by and between

San Bernardino County Transportation Authority

and

SFPP, L.P

for

Agreement for Hunts Lane/UPRR Grade Separation Kinder Morgan Pipeline Relocation**FOR ACCOUNTING PURPOSES ONLY**

<input checked="" type="checkbox"/> Payable	Vendor Contract # _____	Retention:	<input checked="" type="checkbox"/> Original
<input type="checkbox"/> Receivable	Vendor ID _____	<input type="checkbox"/> Yes % <input checked="" type="checkbox"/> No	<input type="checkbox"/> Amendment

Notes: Cooperative Agreement specifies reimbursement for consultant sewer relocation work

Original Contract:	\$ <u>1,451,307</u>	Previous Amendments Total:	\$ _____
		Previous Amendments Contingency Total:	\$ _____
Contingency Amount:	\$ _____	Current Amendment:	\$ _____
		Current Amendment Contingency:	\$ _____

Contingency Amount requires specific authorization by Task Manager prior to release.

Contract TOTAL →**\$ 1,451,307**

↓ Please include funding allocation for the original contract or the amendment.

Task	Cost Code	Funding Sources	Grant ID	Amounts
870	5580	TCRP	0272	\$ <u>1,451,307</u>
_____	_____	_____	_____	\$ _____
_____	_____	_____	_____	\$ _____
_____	_____	_____	_____	\$ _____

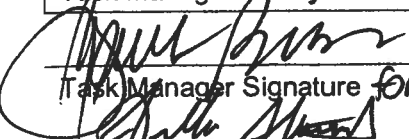
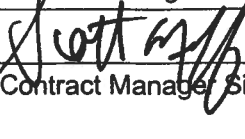
Original Board Approved Contract Date:	<u>08/05/09</u>	Contract Start:	<u>08/05/09</u>	Contract End:	<u>08/05/12</u>
New Amend. Approval (Board) Date:	_____	Amend. Start:	_____	Amend. End:	_____

If this is a multi-year contract/amendment, please allocate budget authority among approved budget authority and future fiscal year(s)-unbudgeted obligations:

Approved Budget Authority →	Fiscal Year: <u>09/10</u> \$ <u>1,451,307</u>	Future Fiscal Year(s) – Unbudgeted Obligation →	\$ _____
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Is this consistent with the adopted budget? ☒ Yes ☐ No
If yes, which Task includes budget authority? 870
If no, has the budget amendment been submitted? ☐ Yes ☐ No

CONTRACT MANAGEMENT**Please mark an "X" next to all that apply:**☐ Intergovernmental ☒ Private ☐ Non-Local ☐ Local ☐ Partly LocalDisadvantaged Business Enterprise: ☒ No ☐ Yes _____%Task Manager: **Garry Cohoe**Contract Manager: **Scott Neff**

	
Task Manager Signature for Garry Cohoe	Contract Manager Signature

Chief Financial Officer Signature _____
Date 8/24/09

9/20/09
Date

PIPELINE RELOCATION AGREEMENT

This Pipeline Relocation Agreement (this "*Agreement*") is entered into as of _____, 2009, by and between the San Bernardino Associated Governments ("*SANBAG*") and SFPP, L.P., a Delaware limited partnership ("*SFPP*"), with reference to the following facts:

- A. SFPP owns, operates and maintains one 20" petroleum product pipeline and related appurtenances (the "*Pipeline*") located in Union Pacific Railroad right of way at the proposed Hunts Lane/Union Pacific Railroad Grade Separation Project, Colton/San Bernardino, California.
- B. SANBAG is proposing that SFPP relocate a portion of the Pipeline to facilitate construction of the Grade Separation (the "*Project*").
- C. SFPP agrees to relocate a portion of the Pipelines to facilitate the Project, provided that SANBAG agrees to pay all costs relating to such relocation.

NOW, THEREFORE, in consideration of the terms and conditions contained herein, along with other good and valuable consideration, the sufficiency of which is hereby acknowledged, SFPP and SANBAG hereby agree as follows:

1. Pipeline Relocation Work. SFPP will review the Project drawings, provide field inspection as needed during SANBAG's other construction activities near the Pipeline, and relocate those portions of the Pipeline within the Project area as more specifically described on Exhibit A (collectively, the "*Pipeline Relocation Work*"). SFPP will conduct the Pipeline Relocation Work in a good and workmanlike manner and in compliance with all applicable federal, state, and local laws, rules and regulations.

2. Notification Prior to Construction Activities Near the Pipeline. If any activities to be undertaken by SANBAG require any sampling, boring, excavation, ditching or other disruption of the soil or subsurface near the Pipelines, SANBAG shall provide written notice to SFPP at least 10 days prior to commencing such activity.

3. Timing of Pipeline Relocation Work. SFPP intends to commence the Pipeline Relocation Work within 60 days after it has received a written notice to proceed from SANBAG along with a deposit in the amount of \$308,649.00 (the "*Initial Deposit*") for the full amount of the estimated Material, Engineering, Company Labor, and the associated Contingency and Administrative Overhead costs of the engineering phase of the Pipeline Relocation Work. Payment of the Initial Deposit must be received by SFPP prior to performance of any Pipeline Relocation Work under this Agreement. SANBAG must also pay a deposit in the amount of \$52,536.00 plus 1.31 times the accepted Contract Labor bid (the "*Construction Deposit*") as a down payment towards the Inspection, Contract Labor and the associated Contingency and Administrative Overhead costs of the construction phase of the Pipeline Relocation Work. Payment of the Construction Deposit must be received by SFPP prior to SFPP awarding the contract for the Pipeline Relocation Work. The Initial Deposit and the Construction Deposit should be made payable to SFPP, L.P. Neither party to this Agreement shall be responsible to the other for damages resulting from delays in the performance of obligations hereunder resulting from action of the elements, fire, flood, "Acts of God", strikes, lockouts, permit delays or any other such causes beyond said parties' reasonable control.

4. Reimbursement for Costs. SANBAG shall pay SFPP the actual cost of the Pipeline Relocation Work and related costs associated with the Project, plus SFPP's normal additives for reimbursable projects (collectively, the "*Actual Cost*"). SFPP estimates that the cost of the Pipeline Relocation Work will be \$1,451,307.00 (the "*Estimated Cost*"), including but not limited to (i) engineering consultant charges, (ii) equipment and materials, (iii) contracted engineering, construction,

and inspection work related to the Project, (iv) company labor and company engineering (including 42% for labor additives), and (v) 19.4% for administrative overhead costs. SFPP shall prepare and submit to SANBAG for their records, a monthly statement of project costs. The statement shall include updated summaries of the following:

- The total construction contract amount
- The amount of the contractor's current invoice
- The total invoice amount paid to the contractor to date
- The total amount of approved change orders to date, if any
- The total remaining contract amount
- Estimate of remaining construction costs to complete pipeline relocation
- The total company labor estimated amount
- The total of company labor costs during the previous month
- The total company labor costs to date
- Estimate of company labor costs to complete project
- The total administrative overhead estimated amount
- The total of administrative overhead costs during the previous month
- The total of administrative overhead costs to date
- Estimate of administrative overhead costs to complete project

When the final accounting of the Actual Cost of the Pipeline Relocation Work is completed, SFPP will submit an itemized billing to SANBAG for review, together with either: (i) an invoice, to the extent the Actual Cost exceeded the Estimated Cost; or (ii) a check from SFPP, to the extent the Estimated Cost exceeded the Actual Cost. If the Actual Cost was greater than the Estimated Cost, SANBAG shall pay SFPP the invoiced amount within 30 days after receipt of such invoice from SFPP. SFPP shall maintain records for 3 years of the actual costs incurred and charged or allocated to the Pipeline Relocation Work in accordance with generally accepted accounting principles.

5. Entire Agreement. This Agreement contains the entire agreement between SANBAG and SFPP with respect to the Pipeline Relocation Work in connection with the Project. The parties expressly agree that this Agreement shall not in any way alter, modify or terminate any provision of SFPP's easement in connection with the Pipelines.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Agreement as of the day first written above.

San Bernardino County Transportation Authority Approved as to Form and Procedure:

By: _____
Name: Paul M. Eaton
Title: President, SANBAG Board of Directors
Date: _____

By: _____
Name: Jean-Rene Basle
Title: SANBAG Counsel
Date: _____

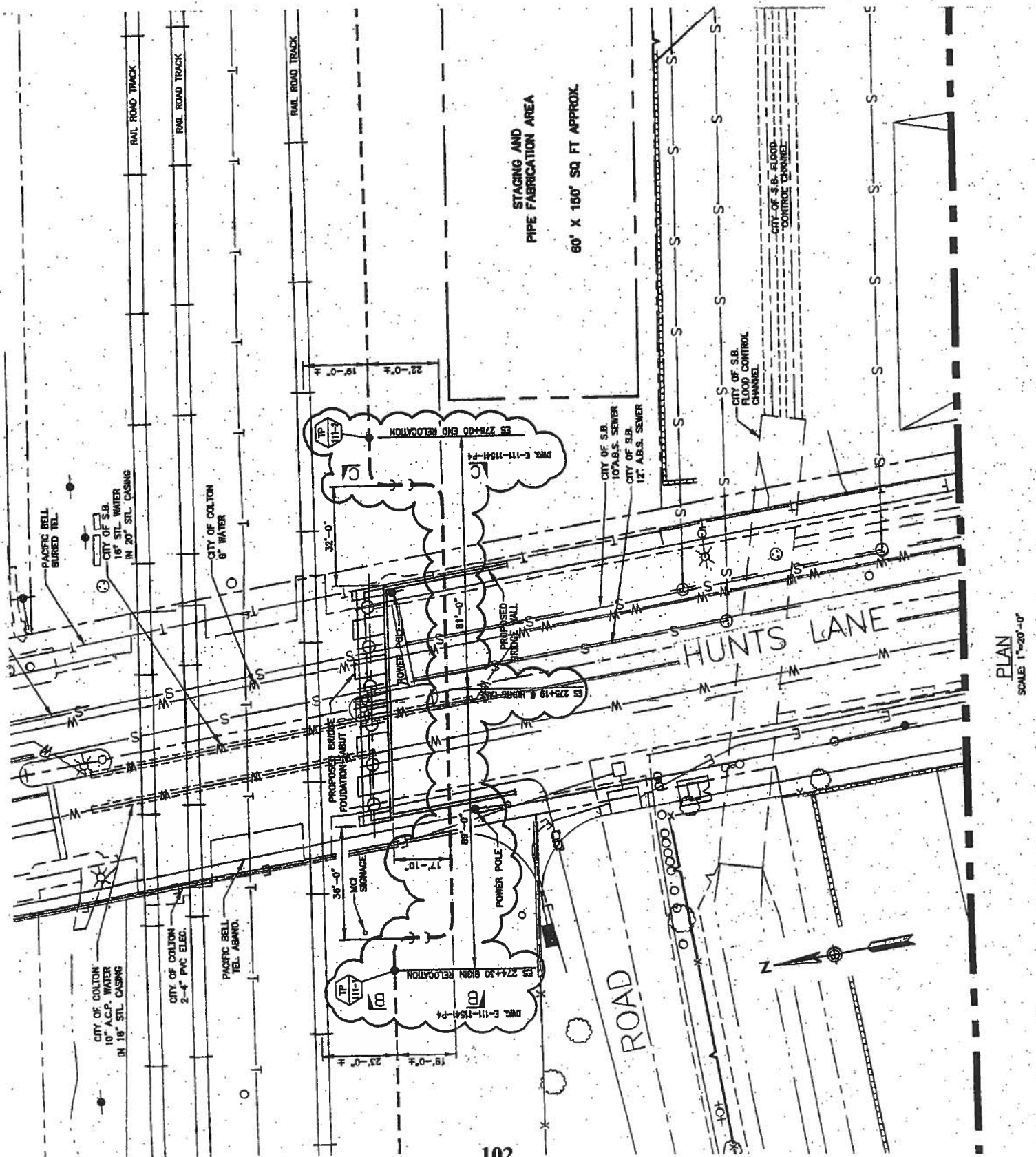
SFPP, L.P.

mm
By: _____
Name: _____
Title: _____
Date: _____

H:GTR:AGMTS:PLR:eloeHuntsLane4

Exhibit A

Description of Portion of the Pipeline to be Relocated within the Project Area



KINDER MORGAN

ENERGY PARTNERS, L.P.
SFPP, L.P.

SFPP, L.P.

Operating Partnership

July 2, 2009

ENG 4-2-1 (5.2 - 111)

File Reference #01-315-7

RECEIVED

SAN BERNARDINO
ASSOCIATED GOVTS

Mr. Scott Neff
Project Manager
San Bernardino Associated Governments
1170 W. 3rd Street, 2nd Floor
San Bernardino, CA 92410-1715

RE: Hunts Lane / UPRR Grade Separation

Dear Mr. Neff:

This is in reply to your email dated June 23, 2009 concerning the proposed Hunts Lane grade separation of the Union Pacific Railroad tracks at the border between the Cities of Colton and San Bernardino, California.

Enclosed are a revised draft Pipeline Relocation Agreement and backup documentation for the cost estimates. The signature block on the agreement has been changed as requested. The Inspection estimate has been moved from the Initial Deposit to the Construction Deposit. The Construction Deposit amount is now based on the accepted Contract Labor bid rather than the estimate. The respective deposits requested are as follows:

Initial Deposit:	Material	\$ 75,000
	Engineering	90,000
	Company labor	70,000
	Contingency	23,500
	Administrative Overhead	<u>50,149</u>
	TOTAL	\$ 308,649
Estimated Construction deposit:	Contract Labor	\$ 830,000
	Inspection	40,000
	Contingency	87,000
	Administrative Overhead	<u>185,658</u>
	TOTAL	\$1,142,658

The amount which SANBAG has paid SFPP prior to execution of the agreement, authorized by Garry Cohoe's letter dated May 5, 2008, will be credited by SFPP to the Initial Deposit owed by SANBAG.

Exhibit A, the Description of Portion of the Pipeline to be Relocated within the Project Area, needs to be prepared. Will SANBAG do this, or should we have our consultant, Sun Engineering Services, prepare the exhibit?

If the draft agreement enclosed is acceptable to SANBAG, I will forward it to our legal counsel for his approval.

Related questions or comments may be directed to me at (714) 560-4770. My email address is reedgt@kindermorgan.com.

Sincerely,

G. T. Reed
Senior Project Manager

BRD0909h1-gc
Enclosures

DRQ/H:engineering/drq/letters/ENG4-2-1/01-315-7

1100 Town & Country Road

Orange, California 92868

714/560-4400

714/560-4601 Fax

DISCUSSION ITEMS

-
- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies
-

Minute Action

AGENDA ITEM: 14

Date: September 2, 2009

Subject: Federal Legislative Report by Steve Palmer, SANBAG Federal Advocate

Recommendation:* Receive Update from Steve Palmer of Van Scoyoc Associates, Inc. – SANBAG's Federal Legislative Advocacy Consultant.

Background: SANBAG's federal advocate, Steve Palmer, provides regular updates to the Board. The purpose of this agenda item is to provide a Congressional report on (1) the Fiscal Year 2010 appropriations process; (2) surface transportation reauthorization legislation; and (3) the Waxman Cap-and-Trade bill.

At the conclusion of Mr. Palmer's presentation, members will be able to ask questions concerning these legislative matters and other federal matters that may be of interest.

Financial Impact: This item is consistent with the Fiscal Year 2009-10 Budget. TN50310000.

Reviewed By: This item has had no prior policy committee review.

Responsible Staff: Jennifer Franco, Director of Intergovernmental and Legislative Affairs

Approved
Board of Directors

Date: _____

Moved: _____ *Second:* _____

In Favor: _____ *Opposed:* _____ *Abstained:* _____

Witnessed: _____

- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 15

Date: September 2, 2009

Subject: Budget Amendment for Local Stimulus Program

Recommendation:*

1. Approve a budget amendment to increase Task No. 50510000 in the amount of \$24,326,118; and
2. Approve a budget amendment to increase Task No. 50410000 in the amount of \$5,873,882 to provide for funding the Local Stimulus Program approved by the SANBAG Board of Directors in the amount of \$30,200,000.

Background: On July 1, 2009, the Board of Directors created a Local Stimulus Program to pass funds to local agencies in exchange for the Board maximizing federal American Recovery and Reinvestment Act (ARRA) funds on the I-215 project. This action amends the SANBAG budget to increase funding in Tasks 50510000 and 50410000 to provide local stimulus program funding.

When this item was approved by the Administrative Committee on August 12, 2009, it was only to cover the proposed first installment of \$20,514,500 of a total of two installments. At that meeting, the Committee stated its direction would be for SANBAG to accelerate the availability of the second installment as conditions allow. Since the Administrative Committee meeting SANBAG staff has been able to factor in the recently received bids for the I-215

*Approved
Board of Directors*

Date: _____

Moved:

Second:

In Favor:

Opposed:

Abstained:

Witnessed: _____

construction as well as other information to arrive at the recommendation to make both installments available now.

The amounts requested in this budget amendment provide both the first and second of what was originally anticipated as two installments of the Local Stimulus Program. Both installments will be made available to local agencies beginning September 2, 2009.

The total amount of both installments of the Local Stimulus Program will equal \$31.4 million. This includes the \$30,200,000 of this budget amendment as well as \$1,200,000 of ARRA rural funds being allocated as dictated by federal statute.

Financial Impact: The budget amendment will be funded from the Measure I Major Projects unallocated fund balance.

Reviewed By: This item was reviewed by the Administrative Committee on August 12, 2009. The Committee unanimously approved the budget amendment for the first installment. The Administrative Committee also stated its intent that the second installment be made available as soon as possible.

Responsible Staff: Duane A. Baker, Director of Management Services

-
- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies
-

Minute Action

AGENDA ITEM: 16

Date: September 2, 2009

Subject: Local Stimulus Program Reimbursement Procedure

Recommendation:* Approve the Local Stimulus Program reimbursement procedures outlined in this report and Attachment A of this report.

Background: On July 1, 2009, the Board of Directors approved a Local Stimulus Program. The approved program is a reimbursement program. This report defines the procedures that will be used by agencies to receive their reimbursement under this program.

These procedures reflect one amendment discussed by the Comprehensive Transportation Plan Technical Advisory Committee (CTPTAC) and approved unanimously by the Major Projects Committee and the Mountain/Desert Committee during their review. The original requirement approved by the Board was for projects to have a minimum useful life of 15 years. The proposed amendment is to change the minimum useful life to 10 years. The original 15 year useful life was proposed when we were considering the possibility of using funds from the State/Local Partnership Program (SLPP) and that program has a 15 year minimum useful life requirement. The Local Stimulus Program ultimately approved by the Board does not include SLPP funds. Some city engineers requested the greater flexibility of having projects with a 10 year life being eligible. For many rehabilitation projects, the 10 year useful life is the

Approved
Board of Directors

Date: _____

Moved:

Second:

In Favor:

Opposed:

Abstained:

Witnessed: _____

standard design criterion. For these reasons the Major Projects and the Mountain/Desert Committees voted unanimously to change the eligibility requirements to reflect a 10 year minimum useful life for improvements funded by the Local Stimulus Program.

Reimbursement Procedures

1. Beginning on September 2, 2009, local agencies may submit to SANBAG projects that they would like to fund through the Local Stimulus Program. Agencies will use a form that will be mailed to them during the month of August to submit their projects.
2. Agencies will receive a Local Stimulus Program Allocation Letter approving the project. This letter will also include the reimbursement guidelines and a Request for Payment Form (Attachment A).
3. Approved projects must be:
 - a. Major rehabilitation, resurfacing or reconstruction extending road life by 10 years.
 - b. New construction to increase capacity, improve mobility or enhance safety.
 - c. Improvements to bicycle or pedestrian safety or mobility with a useful life of at least 10 years.
 - d. Environmental mitigation for air or water quality impacts identified in the environmental impact report for a transportation project.
 - a. If project is environmental mitigation, then list the name of the transportation project and attach a copy of the sections of the environmental document identifying the mitigation measure.
4. Only project phases started after July 1, 2009 will be eligible.
5. Projects must be completed within 36 months from the date of the Local Stimulus Program Allocation Letter approving the project. Provide SANBAG with a copy of the formal project acceptance once the project is completed.

6. Local Stimulus Program funds used on nexus study projects will be used to buy down the total cost of the project for purposes of calculating the development share for that project.
7. Complete the attached Request for Payment form (Attachment A) for each project.
 - a. Be sure to complete the spreadsheet of vendor payments listing the vendor name, description of work, invoice date, invoice number, invoice amount, check number and check amount.
 - b. Attach copies of the invoices listed in the spreadsheet.
 - c. Only the following activities will be authorized for reimbursement:
 - i. Environmental Studies & Permits
 - ii. Plans, Specifications & Estimates
 - iii. Right of Way
 - iv. Construction (including Construction Engineering)
 - d. Have the form signed by the chief administrative officer for the agency.
 - e. Mail the completed form and all attachments to SANBAG.
8. SANBAG will reimburse agencies for eligible expenditures within 30 days of receiving a complete and satisfactory Request for Payment form and all necessary back-up and support documents.
9. SANBAG will not reimburse agencies for any costs incurred after 36 months from the date of the Local Stimulus Program Allocation Letter.
10. Agencies may submit Request for Payment forms for a particular project no more than once every 30 days.

Financial Impact: This item does not have a financial impact itself but is part of implementing a \$31.4 million program. The budget amendment for that program was reviewed by the Administrative Committee and will be reviewed by the Board of Directors as a separate item.

Reviewed By: This item was reviewed by the Comprehensive Transportation Plan Technical Advisory Committee (CTPTAC) on August 10, 2009 and the Major Projects Committee on August 13, 2009 and was amended by the Major Projects

Board of Directors Agenda Item
September 2, 2009
Page 4

Committee as noted above. The item, with amendments, was reviewed by the Mountain/Desert Committee on August 21, 2009.

Responsible Staff: Duane A. Baker, Director of Management Services

Attachment A

Local Stimulus Program Reimbursement - Request for Payment

1. **Agency Name:**

Name of the agency requesting reimbursement.

2. **Contact Person:**

Person SANBAG should contact for questions on the request or the attached back-up material.

3. **Payment Amount Requested:**

Total amount being requested for reimbursement for this project with this Request for Payment.

4. **Authorizing Signature:**

Signature of the chief administrative officer (CAO) for the organization (e.g. city manager or county).

5. **Summary of Project Costs Table**

Category Description	Amount Requested this Form	Amount Requested to Date
Environmental Studies & Design	\$	\$
Plans, Specifications & Estimates	\$	\$
Construction	\$	\$
Right of Way (ROW)	\$	\$
TOTAL	\$	\$

5 (a) **Category Description:** *Environmental Studies & Permits, PS & E, Construction including Construction Engineering, or Right of Way.*

5 (b) **Amount Requested This Claim:** *This is the amount from this payment form only for this particular category.*

5 (c) **Amount Requested to Date:** *This is the total amount requested for this category from all Requests for Payment documents including the current one. On the very first Request for Payment, this amount will equal (b) above and after that it will be a running total.*

Vendor Name	Description of Work	Invoice Date	Invoice #	Invoice Amount	Check #	Check Amount
				\$		\$
				\$		\$
				\$		\$
				\$		\$
				\$		\$
				\$		\$
				\$		\$
				\$		\$
				\$		\$
				\$		\$

NOTE: Attach a copy of the invoices summarized in this table.

- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 17

Date: September 2, 2009

Subject: License Agreement with Central Park Plaza, L.P.

Recommendation:* Approve license agreement (SANBAG Contract 10001) with Central Park Plaza, L.P. for the construction of a retaining wall to surround Southern California Edison facilities adjacent to the former Southern Pacific Baldwin Park Branch in the city of Montclair.

Background: As part of the development of commercial property along the southern boundary of the former Southern Pacific Baldwin Park Branch acquired by SANBAG, the developer and Southern California Edison constructed electrical facilities within the right of way owned by SANBAG. Once this was noticed by the Los Angeles County Metropolitan Transportation Authority (LACMTA) Real Estate staff, a replacement location for the facilities was agreed upon. The location chosen and agreed upon requires the construction of a retaining wall around the relocated facilities. A portion of the retaining wall is required to be constructed within the SANBAG right of way and is comprised of just over 32.5 square feet (see Exhibit A-2 of the license).

The LACMTA staff has prepared the attached license agreement and it has been reviewed by SANBAG legal counsel. LACMTA will collect a one-time administrative fee of \$1,000 and \$500 annually adjusted by the CPI. The use of

*Approved
Board of Directors*

Date: _____

Moved:

Second:

In Favor:

Opposed:

Abstained:

Witnessed: _____

BRD0909a-maa
35210000
Attachment:
C10001-mab

the license does insure that should SANBAG ever need the use of the licensed area, the retaining wall would be removed.

Financial Impact: This item is consistent with the agency adopted budget. The revenue received on behalf of SANBAG will be held by LACMTA and after reconciling with expenses at the end of the fiscal year, will be included in the net payment of rental., easement and license receipts to SANBAG

Reviewed By: This item has not received policy committee review due to the cancellation of the August 19th Plans and Programs Committee. The License Agreement has been reviewed and approved as to form by SANBAG legal counsel.

Responsible Staff: Mitch Alderman, Director of Transit and Rail Programs

LICENSE AGREEMENT

BETWEEN

SAN BERNARDINO ASSOCIATED GOVERNMENTS

AND

CENTRAL PARK PLAZA. LP

LICENSE AGREEMENT

This LICENSE AGREEMENT ("Agreement") is made and entered into as of _____, 2009 by and between the **SAN BERNARDINO ASSOCIATED GOVERNMENTS**, a public agency existing under the authority of the laws of the State of California ("SANBAG"), and **CENTRAL PARK PLAZA, LP** a California limited partnership, ("LICENSEE"), upon and in consideration of the agreements, covenants, terms and conditions below:

PART I

BASIC LICENSE PROVISIONS

1. Description of License Property:
A triangular shaped property located on the southern section of SANBAG's Baldwin Park Branch Right of Way westerly of Central Avenue at Mile Post 516.68 as shown on the attached Exhibit "A"
Approximate area:
Thirty Two Square Feet (32 Sq. Ft.) (§1.1)
2. Use of License Property:
Installation, maintenance and repair of a block wall only, and no other uses (§1.1, §10)
3. Commencement Date:
September 1, 2009 (§1.2)
4. Term (circle one):
☒ A. Month-to-month, unless canceled by SANBAG as provided in Section 1.2 on 30 days' notice
B. ~~N/A months, ending N/A 20 N/A, unless canceled by SANBAG as provided in Section 1.2 on 30 days' notice~~ (§1.2)
5. License Fees:
☒ A. Base License Fee:
\$500.00 per year, payable (circle one):
☒ a. Annually in advance
b. ~~Monthly in advance~~ (§2.1)
☒ B. Additional License Fee:
☒ a. One time administrative fee: \$1,000.00
b. ~~Other fees: \$N/A~~ (§2.1)

- (C.) Base License Fee Adjustment Dates (Circle, if applicable)
- (a) Annually based on CPI commencing September 1, 2010
 - (b) At intervals of not less than three (3) years based on current fair market rent (\$2.2)

6. Insurance Amount (See Exhibit "B") (\$16)
7. SANBAG's Address:
SAN BERNARDINO ASSOCIATED GOVERNMENTS
C/o Los Angeles County Metropolitan Transportation Authority
One Gateway Plaza - 13th Floor – RBPK001890
Los Angeles, CA 90012-2952
Attn: Director of Real Estate (\$24.1)
8. Licensee's Address:
Steve Hammitt
DBA: CENTRAL PARK PLAZA LP
630 S. Indian Hill Boulevard, Suite 4
Claremont, California 91771 (\$24.1)
9. Facility:
Block wall (\$1.1)

The foregoing Basic License Provisions and the General License Provisions set forth in attached Part II are incorporated into and made part of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the date first written above.

SANBAG:

SAN BERNARDINO ASSOCIATED GOVERNMENTS

By: _____
Name: Velma C. Marshall
Title: Director of Real Estate
For: Los Angeles County Metropolitan Transportation Authority
As: Agent for SANBAG

LICENSEE:

CENTRAL PARK PLAZA, LP

By: _____
Name: Steve Hammitt
Title: Managing Partner

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Exhibits:

- "A" License Property
- "B" Insurance Requirements
- "C" Permitted Hazardous Materials
- "D" Additional Provisions

PART II - GENERAL LICENSE PROVISIONS

1. GRANT OF LICENSE/TERM

1.1 Grant of License. SANBAG hereby grants a non-exclusive license to Licensee in, on, over, under, across and along the real property of SANBAG in the location shown in the diagram attached hereto as Exhibit A and described in Item 1 of the Basic License Provisions (the "License Property"), for construction, installation, operation, alteration, maintenance, reconstruction and/or removal of the Facility described in Item 9 of the Basic License Provisions, and any usual, necessary and related appurtenances thereto (the "Facility"), for the purposes described in Item 2 of the Basic License Provisions, together with rights for access and entry onto the License Property as necessary or convenient for the use of the Facility. In connection with this grant of license, Licensee, its employees, agents, customers, visitors, invitees, licensees and contractors (collectively, "Licensee's Parties") subject to the provisions hereof, may have reasonable rights of entry and access onto adjoining real property of SANBAG if necessary for the use of the Facility or the License Property, with the time and manner of such entry and access to be subject to SANBAG's prior written approval. The License Property, adjoining real property of SANBAG and personal property of SANBAG located thereon shall hereinafter collectively be referred to as "SANBAG Property".

1.2 Term of Agreement. The term of this Agreement shall commence on the "Commencement Date" specified in Item 3 of the Basic License Provisions. Unless a specific term of this Agreement is filled in at Item 4.B of the Basic License Provisions, or if Item 4.A is circled, this Agreement shall continue in full force and effect on a month-to-month basis as provided in Item 4.A of the Basic License Provisions until terminated by either party on thirty (30) days' prior written notice. If Item 4.B of the Basic License Provisions is filled in, then this Agreement shall be a license for the term specified in said Item 4.B; provided, however, that SANBAG shall have the right to terminate this Agreement prior to the date specified in Item 4.B by delivering thirty (30) days' prior written notice to Licensee, provided that SANBAG, in its sole, reasonable judgment, determines that it then may require possession of the License Property for its primary, transportation-related purposes. The term of this Agreement as provided above is referred to as the "Term".

1.3 Condition of License Property. Licensee acknowledges that it has inspected and accepts the License Property in its present condition as suitable for the use for which this Agreement is granted. Execution of this Agreement by Licensee shall be conclusive to establish that the License Property is in good and satisfactory condition as of the Commencement Date.

2. PAYMENTS

2.1 License Fee. As consideration for the rights herein granted, Licensee agrees to pay to SANBAG the amount per month specified in Item 5 of the Basic License Provisions, as such amount may be adjusted as set forth in Section 2.2. If Item 5.B.a of the Basic License Provisions is circled, the one time fee noted therein shall be due and payable upon execution of this Agreement. If Item 5.B.b of the Basic License Provisions is circled, the fee noted therein shall be due and payable as indicated in that item. If Item 5.A.a of the Basic License Provisions is circled, an amount equal to twelve (12) times the Base License Fee, as such fee may be adjusted pursuant to the provisions of Section 2.2, shall be due and payable, without demand, annually in advance for the convenience of both parties, without affecting the Term of this Agreement as specified in Section 1.2. If Item 5.A.b of the Basic License Provisions is circled, the first month's Base License Fee noted therein shall be due and payable upon execution of this Agreement. Thereafter, the Base License Fee, as such fee may be adjusted pursuant to the provisions of Section 2.2, shall be due and payable, without demand, on or before the first day of each calendar month succeeding the Commencement Date during the Term, except that the Base License Fee for any fractional calendar month at the commencement or end of the Term shall be prorated on a daily basis.

2.2 License Fee Adjustment.

2.2.1 Annual CPI Adjustment. If Item 5.C.a of the Basic License Provisions is circled, then the Base License Fee shall be increased, but not decreased, as provided below on the first day of each month during which an annual anniversary of the Commencement Date occurs unless another date(s) is provided in Item 5 of the Basic License Provisions (the "Adjustment Date"). The adjusted Base License Fee as of each Adjustment Date shall be

the greater of the Base License Fee on the day preceding that Adjustment Date or that amount multiplied by a fraction, the numerator of which is the CPI figure for the third month preceding the month during which the particular Adjustment Date occurs and the denominator of which is the CPI figure for the month that is three (3) months prior to the month containing the prior Adjustment Date or, if none, the Commencement Date. As used in this section, the "CPI" means the Consumer Price Index for Urban Wage Earners and Clerical Workers, Los Angeles/Riverside/Orange County, all items (1982-84 = 100), published by the U.S. Department of Labor, Bureau of Labor Statistics, or if such index is no longer published, the U.S. Department of Labor's most comprehensive official index then in use that most nearly corresponds to the index named above. If it is calculated from a base different from the base period 1982-84 = 100, figures used for calculating the adjustment shall first be converted to the base period used under a formula supplied by the Bureau. If a comparable index shall no longer be published by the U.S. Department of Labor, another index generally recognized as authoritative shall be substituted by SANBAG.

2.2.2 Fair Market Adjustment. If Item 5.C.b of the Basic License Provisions is circled, then, at intervals of not less than three (3) years, the Base License Fee (as such fee may be adjusted by Section 2.2.1, above) payable under this Section 2 shall be increased, but not decreased, in order to adjust the fee to the then fair market rental value of the License Property as determined by SANBAG in good faith. Such increases shall be effective on an anniversary date of the Commencement Date. SANBAG shall give Licensee written notice of the date and amount of any such adjustment not less than thirty (30) days prior to the applicable anniversary date. If no adjustment is made on the third anniversary of the Commencement Date, an adjustment may nevertheless be made on a subsequent date and thereafter at intervals of not less than three (3) years apart.

2.3 Late Charge. Licensee acknowledges that late payment by Licensee of any payment owed to SANBAG under this Agreement will cause SANBAG to incur costs not contemplated by this Agreement, the exact amount of such costs being extremely difficult and impracticable to fix. Therefore, if any payment due from Licensee is not received by SANBAG within five (5) days of when due, Licensee shall pay to SANBAG an additional sum of ten percent (10%) of the overdue payment as a late charge, up to a maximum amount of \$500 for each late payment. The parties agree that this late charge represents a fair and reasonable estimate of the administrative costs that SANBAG will incur by reason of a late payment by Licensee. Acceptance of any late payment charge shall not constitute a waiver of Licensee's default with respect to the overdue payment, nor prevent SANBAG from exercising any of the other rights and remedies available to SANBAG under this Agreement, at law or in equity, including, but not limited to, the interest charge imposed pursuant to Section 24.5.

3. TAXES

Licensee shall be liable for and agrees to pay promptly and prior to delinquency, any tax or assessment, including but not limited to any possessory interest tax, levied by any governmental authority: (a) against the Facility, the License Property and/or any personal property, fixtures or equipment of Licensee used in connection therewith or (b) as a result of the Facility's operations. Licensee recognizes and understands that this Agreement may create possessory interest subject to property taxation and that the Licensee may be subject to the payment of property tax levied on such interest.

4. CONSTRUCTION

Any work performed or caused to be performed by Licensee on the Facility or the License Property shall be performed (a) at Licensee's sole cost and expense; (b) in accordance with any and all applicable laws, rules and regulations (including the SANBAG's rules and regulations), and (c) in a manner which is (i) equal to or greater than the then applicable standards of the industry for such work, and (ii) satisfactory to SANBAG. Prior to commencement of any construction, reconstruction, installation, restoration, alteration, repair, replacement or removal (other than normal maintenance) (hereinafter, "Work") on the License Property, Licensee shall submit work plans to SANBAG for review and approval. Any such Work must be carried out pursuant to work plans approved in writing by SANBAG. In addition, Licensee shall provide SANBAG with at least 10 calendar days' written notice prior to commencement of any Work on the License Property or the Facility, except in cases of emergency, in which event Licensee shall notify SANBAG's representative personally or by phone prior to commencing any Work. Unless otherwise requested by SANBAG, upon completion of any Work, Licensee shall restore the SANBAG Property to its condition immediately preceding the commencement of such Work.

5. CONTRACTORS; APPROVAL AND INSURANCE

Any contractors of Licensee performing Work on the Facility or the License Property shall first be approved in writing by SANBAG. With respect to such Work, Licensee shall, at its sole cost and expense, obtain and maintain in full force and effect throughout the term of such Work, insurance, as required by SANBAG, in the amounts and coverages specified on, and issued by insurance companies as described on, Exhibit "B". Additionally, Licensee shall cause any and all of its contractors and subcontractors which may (i) be involved with such Work, or (ii) may, for any reason, need to enter onto the License Property to obtain and maintain in full force and effect during the Term of this Agreement, or throughout the term of such Work (as applicable), insurance, as required by SANBAG, in the amounts and coverages specified on, and issued by insurance companies as described on, Exhibit "B". SANBAG reserves the right, throughout the Term of this Agreement, to review and change the amount and type of insurance coverage it requires in connection with this Agreement or the Work to be performed on the License Property.

6. REIMBURSEMENT

Licensee agrees to reimburse SANBAG for all reasonable costs and expenses incurred by SANBAG in connection with Work on or maintenance of the License Property or the Facility, including, but not limited to, costs incurred by SANBAG in furnishing any materials or performing any labor, reviewing Licensee's Work plans and/or inspecting any Work, installing or removing protection beneath or along SANBAG's tracks, furnishing of watchmen, flagmen and inspectors as SANBAG deems necessary and such other items or acts as SANBAG in its sole discretion deems necessary to monitor or aid in compliance with this Agreement.

7. LIENS

Licensee will fully and promptly pay for all materials joined or affixed to the Facility or SANBAG Property, and fully and promptly pay all persons who perform labor upon said Facility or SANBAG Property. Licensee shall not suffer or permit to be filed or enforced against the SANBAG Property or the Facility, or any part thereof, any mechanics', materialmen's, contractors', or subcontractors' liens or stop notices arising from, or any claim for damage growing out of, any testing, investigation, maintenance or Work, or out of any other claim or demand of any kind. Licensee shall pay or cause to be paid all such liens, claims or demands, including sums due with respect to stop notices, together with attorney's fees incurred by SANBAG with respect thereto, within ten (10) business days after notice thereof and shall indemnify, hold harmless and defend SANBAG from all obligations and claims made against SANBAG for the above described work, including attorney's fees. Licensee shall furnish evidence of payment upon request of SANBAG. Licensee may contest any lien, claim or demand by furnishing a statutory lien bond or equivalent with respect to stop notices to SANBAG in compliance with applicable California law. If Licensee does not discharge any mechanic's lien or stop notice for works performed for Licensee, SANBAG shall have the right to discharge same (including by paying the claimant) and Licensee shall reimburse SANBAG for the cost of such discharge within ten (10) business days after billing. SANBAG reserves the right at any time to post and maintain on the SANBAG Property such notices as may be necessary to protect SANBAG against liability for all such liens and claims. The provisions of this section shall survive the termination of this Agreement.

8. MAINTENANCE AND REPAIR

Licensee, at Licensee's sole expense, shall maintain the License Property and the Facility in a first-class condition during the Term of this Agreement and shall perform all maintenance and clean-up of the License Property and the Facility as necessary to keep the License Property and the Facility in good order and condition, to SANBAG's satisfaction. If any portion of the SANBAG Property, including improvements or fixtures, suffers damage by reason of the access to or use of the License Property, by Licensee, Licensee's Parties or by Licensee's partners, officers or directors, including but not limited to damage arising from any tests or investigations conducted upon the License Property, Licensee shall, at its own cost and expense, immediately repair all such damage and restore the SANBAG Property to as good a condition as before such cause of damage occurred. Repair of damage shall include, without limitation, regrading and resurfacing of any holes, ditches, indentations, mounds or other inclines created by any excavation by Licensee or Licensee's Parties.

9. LANDSCAPING

If required by SANBAG, then Licensee, at its sole cost and expense, shall install barrier landscaping to shield the Facility from public view. SANBAG shall have the right to review and approve landscaping plans prior to installation. All landscaping work shall be done in accordance with the provisions of Section 4 above.

10. USE

The License Property and the Facility shall be used only for the purposes specified in Item 2 of the Basic License Provisions and for such lawful purposes as may be directly incidental thereto. No change shall be made by Licensee in the use of the License Property, the Facility or the commodity or product being conveyed through the Facility (if any) without SANBAG's prior written approval.

11. ABANDONMENT

Should Licensee at anytime abandon the use of the Facility or the License Property, or any part thereof, or fail at any time for a continuous period of ninety (90) days to use the same for the purposes contemplated herein, then this Agreement shall terminate to the extent of the portion so abandoned or discontinued, and in addition to any other rights or remedies, SANBAG shall immediately be entitled to exclusive possession and ownership of the portion so abandoned or discontinued, without the encumbrance of this Agreement.

12. BREACH

Should Licensee breach, or fail to keep, observe or perform any agreement, covenant, term or condition on its part herein contained, then, in addition to any other available rights and remedies, SANBAG at its option may:

(a) perform any necessary or appropriate corrective work at Licensee's expense, which Licensee agrees to pay to SANBAG upon demand, or

(b) with or without written notice or demand, immediately terminate this Agreement and at any time thereafter, recover possession of the License Property or any part thereof, and expel and remove therefrom Licensee and any other person occupying the License Property by lawful means, and again repossess and enjoy the License Property and the Facility, without prejudice to any of the remedies that SANBAG may have under this Agreement, at law or equity by reason of Licensee's default or of such termination.

13. SURRENDER

Upon termination of this Agreement, unless otherwise requested in writing by SANBAG prior to the date of termination, Licensee, at its own cost and expense, shall immediately remove the Facility and restore the SANBAG Property as nearly as possible to the same state and condition as existed prior to the construction, reconstruction or installation of said Facility. Should Licensee fail to comply with the requirements of the preceding sentence, SANBAG may at its option (i) perform the same at Licensee's expense, which costs Licensee agrees to pay to SANBAG on demand, or (ii) assume title and ownership of said Facility. No termination hereof shall release Licensee from any liability or obligation hereunder, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date the Facility is removed and the SANBAG Property is restored.

14. INDEMNIFICATION

Licensee, on behalf of itself and its successors and assigns, agrees to indemnify, defend (by counsel satisfactory to SANBAG), and hold harmless SANBAG and its subsidiaries, officers, directors, employees, agents, successors and assigns (individually and collectively, "Indemnitees"), to the maximum extent allowed by law, from and against all loss, liability, claims, demands, suits, liens, claims of lien, damages (including consequential damages), costs and expenses (including, without limitation, any fines, penalties, judgments, litigation expenses, and experts' and attorneys' fees), that are incurred by or asserted against Indemnitees arising out of or connected in any manner with (i) the acts or omissions to act of the Licensee, or its officers, directors, affiliates, Licensee's Parties or anyone directly or indirectly employed by or for whose acts Licensee is liable (collectively, "Personnel") or invitees of Licensee in

connection with the SANBAG Property or arising from the presence upon or performance of activities by Licensee or its Personnel with respect to the SANBAG Property, (ii) bodily injury to or death of any person (including employees of Indemnites) or damage to or loss of use of property resulting from such acts or omissions of Licensee or its Personnel, or (iii) non-performance or breach by Licensee or its Personnel of any term or condition of this Agreement, in each case whether occurring during the Term of this Agreement or thereafter.

The foregoing indemnity shall be effective regardless of any negligence (whether active, passive, derivative, joint, concurring or comparative) on the part of Indemnites, unless caused solely by the gross negligence or willful misconduct of Indemnites; shall survive termination of this Agreement; and is in addition to any other rights or remedies which Indemnites may have under the law or under this Agreement. Upon request of SANBAG, Licensee shall provide insurance coverage for possible claims or losses covered by the indemnification and defense provisions of this Agreement.

Claims against the Indemnites by Licensee or its Personnel shall not limit the Licensee's indemnification obligations hereunder in any way, whether or not such claims against Indemnites may result in any limitation on the amount or type of damages, compensation, or benefits payable by or for a Licensee or its Personnel under workers' compensation acts, disability benefit acts or other employee benefit acts or insurance.

15. ASSUMPTION OF RISK AND WAIVER

To the maximum extent allowed by law, Licensee assumes any and all risk of loss, damage or injury of any kind to any person or property, including without limitation, the Facility, the SANBAG Property and any other property of, or under the control or custody of, Licensee, which is on or near the License Property. Licensee's assumption of risk shall include, without limitation, loss or damage caused by defects in any structure or improvement on the SANBAG Property, accident or fire or other casualty on the SANBAG Property, or electrical discharge, noise or vibration resulting from SANBAG's transit operations on or near the SANBAG Property. The term "SANBAG" as used in this section shall include: (i) any transit or rail-related company validly operating upon or over SANBAG's tracks or other property, and (ii) any other persons or companies employed, retained or engaged by SANBAG. Licensee, on behalf of itself and its Personnel (as defined in Section 14) as a material part of the consideration for this Agreement, hereby waives all claims and demands against SANBAG for any such loss, damage or injury of Licensee and/or its Personnel. In that connection, Licensee waives the benefit of California Civil Code Section 1542, which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

The provisions of this section shall survive the termination of this Agreement.

16. INSURANCE

Licensee, at its sole cost and expense, shall obtain and maintain in full force and effect during the Term of this Agreement insurance as required by SANBAG in the amounts and coverages specified and issued by insurance companies as described on Exhibit "B". SANBAG reserves the right, throughout the Term of this Agreement, to review and change the amount and type of insurance coverage it requires in connection with this Agreement or the Work to be performed on the License Property. Prior to (i) entering the License Property or (ii) performing any Work or maintenance on the License Property, Licensee shall furnish SANBAG with insurance endorsements or certificates evidencing the existence, amounts and coverages of the insurance required to be maintained hereunder. In most instances, SANBAG does not allow self-insurance, however, if Licensee can demonstrate assets and retention funds meeting SANBAG's self-insurance requirements, SANBAG may permit Licensee to self-insure, provided, however that the right to self-insure with respect to any coverage required to be maintained hereunder may be granted or revoked by SANBAG at its sole and absolute discretion. SANBAG shall not be liable for the payment of any premiums or assessments for insurance required to be maintained by Licensee under this Agreement.

17. TESTS AND INSPECTIONS

SANBAG shall have the right at anytime to inspect the License Property and the Facility so as to monitor compliance with this Agreement. If, in SANBAG's sole judgment, any installation on, or use or condition of

the License Property may have an adverse effect on the SANBAG Property, adjacent property (whether or not owned by SANBAG) or SANBAG operations, SANBAG shall be permitted to conduct any tests or assessments, including but not limited to environmental assessments, of, on or about the License Property, as it determines to be necessary or useful to evaluate the condition of the License Property. Licensee shall cooperate with SANBAG in any tests or inspections deemed necessary by SANBAG. Licensee shall pay or reimburse SANBAG, as appropriate, for all reasonable costs and expenses incurred due to the tests, inspections or any necessary corrective work and inspections thereafter.

18. HAZARDOUS/TOXIC MATERIALS USE AND INDEMNITY

Licensee shall operate and maintain the License Property in compliance with all, and shall not cause or permit the License Property to be in violation of any federal, state or local environmental, health and/or safety-related laws, regulations, standards, decisions of the courts, permits or permit conditions, currently existing or as amended or adopted in the future which are or become applicable to Licensee or the License Property ("Environmental Laws"). Except for Hazardous Materials expressly approved by SANBAG in writing as shown on Exhibit "C", Licensee shall not cause or permit, or allow any of Licensee's Parties to cause or permit, any Hazardous Materials to be brought upon, stored, used, generated, treated or disposed of on or about the SANBAG Property. Any Hazardous Materials on the site shall be stored, used, generated and disposed of in accordance with all applicable Environmental Laws. As used herein, "Hazardous Materials" means any chemical, substance or material which is now or becomes in the future listed, defined or regulated in any manner by any Environmental Law based upon, directly or indirectly, its properties or effects.

Licensee shall indemnify, defend (by counsel acceptable to SANBAG) and hold harmless the Indemnitees (as defined in Section 14) from and against all loss, liability, claim, damage, cost or expense (including without limitation, any fines, penalties, judgments, litigation expenses, attorneys' fees, and consulting, engineering, and construction fees and expenses) incurred by Indemnitees as a result of (a) Licensee's breach of any prohibition or provision of this section, or (b) any release of Hazardous Materials upon or from the Facility or the License Property or contamination of the SANBAG Property or adjacent property (i) which occurs due to the use and occupancy of the Facility or the SANBAG Property by Licensee or Licensee's Parties, or (ii) which is made worse due to the act or failure to act of Licensee or Licensee's Parties.

The foregoing indemnity shall be effective regardless of any negligence (whether active, passive, derivative, joint, concurring or comparative) on the part of Indemnitees, unless caused solely by the gross negligence or willful misconduct of Indemnitees; shall survive termination of this Agreement; and is in addition to any other rights or remedies which Indemnitees may have under the law or under this Agreement.

In addition, in the event of any release on or contamination of the License Property, Licensee, at its sole expense, shall promptly take all actions necessary to clean up the affected property (including the SANBAG Property and all affected adjacent property -- whether or not owned by SANBAG) and to return the affected property to the condition existing prior to such release or contamination, to the satisfaction of SANBAG and any governmental authorities having jurisdiction thereover.

19. UNDERGROUND STORAGE TANKS

NEITHER LICENSEE NOR LICENSEE'S PARTIES SHALL INSTALL OR USE ANY UNDERGROUND STORAGE TANKS ON THE LICENSE PROPERTY UNLESS SPECIFICALLY APPROVED IN ADVANCE IN WRITING BY SANBAG, WHICH APPROVAL MAY BE WITHHELD IN SANBAG'S SOLE DISCRETION.

At SANBAG's option, upon the termination of this Agreement at any time and for any reason, Licensee shall, prior to the effective date of such termination, remove and close all underground storage tanks and related equipment and clean up and remove all Hazardous Materials in, on, under and about the SANBAG Property, in accordance with the requirements of all Environmental Laws and to the satisfaction of SANBAG and any governmental authorities having jurisdiction thereover, and deliver to SANBAG a copy of a certificate of closure issued for such tanks by the appropriate governmental authority.

20. SUBORDINATE RIGHTS

This Agreement is subject and subordinate to the prior and continuing right and obligation of SANBAG, its successors and assigns, to use the SANBAG Property in the exercise of its powers and in the performance of its duties, including those as a public transportation body. Accordingly, there is reserved and retained unto SANBAG, its successors, assigns and permittees, the right to construct, reconstruct, maintain and use existing and future rail tracks, facilities and appurtenances and existing and future transportation, communication, pipeline and other facilities and appurtenances in, upon, over, under, across and along the SANBAG Property, and in connection therewith the right to grant and convey to others, rights and interests to the SANBAG Property on the License Property and in the vicinity of Facility. This Agreement is subject to all licenses, leases, easements, restrictions, conditions, covenants, encumbrances, liens, claims and other matters of title ("title exceptions") which may affect the SANBAG Property now or hereafter, and the words "grant" or "convey" as used herein shall not be construed as a covenant against the existence of any such title exceptions.

21. COMPLIANCE WITH LAWS

Licensee shall comply with all applicable federal, state and local laws, regulations, rules and orders in its work on, or maintenance, inspection, testing or use of, the Facility and the SANBAG Property and shall furnish satisfactory evidence of such compliance promptly upon request of SANBAG. SANBAG may enter the License Property to inspect the Facility at any time, upon provision of reasonable notice of inspection to Licensee. Licensee shall obtain all required permits or licenses required by any governmental authority for its use of the License Property and the Facility, at its sole cost and expense.

22. CONDEMNATION

In the event all or any portion of the License Property shall be taken or condemned for public use (including conveyance by deed in lieu of or in settlement of condemnation proceedings), Licensee shall receive compensation (if any) only for the taking and damage to the Facility. Any other compensation or damages arising out of such taking or condemnation awarded to Licensee are hereby assigned by Licensee to SANBAG.

23. MARKERS

Project markers in form and size satisfactory to SANBAG, identifying the Facility and its owners, will be installed and constantly maintained by and at the expense of Licensee at such locations as SANBAG shall designate. Such markers shall be relocated or removed upon request of SANBAG without expense to SANBAG. Absence of markers in or about SANBAG Property does not constitute a warranty by SANBAG of the absence of subsurface installations.

24. GENERAL PROVISIONS

24.1 Notices. All notices and demands which either party is required to or desires to give to the other shall be made in writing by personal delivery, by express courier service or by certified mail postage prepaid, and addressed to such party at its address set forth in the Basic License Provisions. Either party may change its address for the receipt of notice by giving written notice thereof to the other party in the manner herein provided. Notices shall be effective only upon receipt by the party to whom notice or demand is given.

24.2 Non-Exclusive License. The license granted herein is not exclusive and SANBAG specifically reserves the right to grant other licenses within the License Property.

24.3 Governing Law. This Agreement shall be governed by the laws of the State of California.

24.4 Severability. If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions, or provisions of this Agreement, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

24.5 Interest on Past-due Obligations. Except as expressly herein provided, any amount due to SANBAG that is not paid when due shall bear interest, from the date due, at the maximum rate then allowable by law. Such interest will be due SANBAG as it accrues. Payment of such interest shall not excuse or cure any default by Licensee under this Agreement, provided, however, that interest shall not be payable on late charges incurred by Licensee.

24.6 Captions. The captions included in this Agreement are for convenience only and in no way define, limit, or otherwise describe the scope or intent of this Agreement or any provision hereof, or in any way affect the interpretation of this Agreement.

24.7 Survival of Obligations. All obligations of Licensee hereunder not fully performed as of the expiration or earlier termination of the Term of this Agreement shall survive the expiration or earlier termination of this Agreement, including without limitation, all payment obligations with respect to License Fees and all obligations concerning the condition of the SANBAG Property and the Facility.

24.8 Waiver of Covenants or Conditions. The waiver by one party of the performance of any covenant or condition under this Agreement shall not invalidate this Agreement nor shall it be considered a waiver by it of any other covenant or condition under this Agreement.

24.9 Effective Date/Nonbinding Offer. Submission of this License for examination or signature by Licensee does not constitute an offer or option for license, and it is not effective as a license or otherwise until executed and delivered by both SANBAG and Licensee. Each individual executing this License on behalf of SANBAG or Licensee represents and warrants to the other party that he or she is authorized to do so.

24.10 Amendment. This Agreement may be amended at any time by the written agreement of SANBAG and Licensee. All amendments, changes, revisions, and discharges of this Agreement in whole or in part, and from time to time, shall be binding upon the parties despite any lack of legal consideration, so long as the same shall be in writing and executed by the parties hereto.

24.11 Assignment. This Agreement and the license granted herein are personal to the Licensee. Licensee shall not assign or transfer (whether voluntary or involuntary) this Agreement in whole or in part, or permit any other person or entity to use the rights or privileges hereby conveyed, without the prior written consent of SANBAG, which may be withheld in SANBAG's sole and absolute discretion, and any attempted act in violation of the foregoing shall be void and without effect and give SANBAG the right to immediately terminate this Agreement.

24.12 Attorneys' Fees. In any judicial or arbitration proceeding involving performance under this Agreement, or default or breach thereof, the prevailing party shall be entitled to its reasonable attorney's fees and costs.

24.13 Nondiscrimination. Licensee certifies and agrees that all persons employed thereby and/or the affiliates, subsidiaries, or holding companies thereof and any contractors retained thereby with respect to the License Property are and shall be treated equally without regard to or because of race, religion, ancestry, national origin, or sex, and in compliance with all federal and state laws prohibiting discrimination in employment, including but not limited to the Civil Rights Act of 1964; the Unruh Civil Rights Act; the Cartwright Act; and the California Fair Employment Practices Act.

24.14 Further Acts. Licensee agrees to perform any further acts and to execute and deliver in recordable form any documents which may be reasonably necessary to carry out the provisions of this Agreement, including, at SANBAG's sole discretion, the relocation of the Facility and the license granted hereby.

24.15 Termination for Public Project. Licensee hereby expressly recognizes and agrees that the License Property is located on SANBAG property that may be developed for public projects and programs which may be implemented by SANBAG or other public agencies, such as, but not limited to: rail and bus transitways, bikeways, walkways, beautification projects and other public uses (collectively "Project"), and that Licensee's use of the License Property under this License is an interim use. Accordingly, as a condition to entering into this License, SANBAG expressly reserves the right to terminate the License for any of such public Project. Licensee expressly acknowledges and agrees that: (1) SANBAG may terminate this license for any public project; (2) Licensee will **NOT** oppose any public

Licensee
SANBAG

Project when planned or implemented on or adjacent to the License Property; and (3) in the event SANBAG terminates this License and requires Licensee to vacate the License Property for any –public Project, Licensee (a) shall not be entitled to receive any relocation assistance, moving expenses, goodwill or other payments under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. §4601 et seq. and/or the California Relocation Assistance Law, as amended, California Government Code §7260 et seq; and (b) shall not be entitled to any compensation under the eminent domain law, as a result of such termination and vacation of the License Property.

24.16 Future Need of License Property. If SANBAG shall at any time, or from time to time, so require by written notice thereof to Licensee based on the need of SANBAG, in its sole discretion, for the License Property for its public purposes Licensee shall reconstruct, alter, make changes as required by SANBAG, relocate or remove its Facility at Licensee's sole cost and expense.

24.17 Time of Essence. Time is of the essence.

24.18 No Recording. Licensee shall not record or permit to be recorded in the official records of the county where the License Property is located, this Agreement, any memorandum of this Agreement or any other document giving notice of the existence of this Agreement or the license granted hereby.

24.19 Revocable License. Licensee agrees that notwithstanding the improvements made by Licensee to the License Property or other sums expended by Licensee in furtherance of this Agreement, the license granted herein is revocable by SANBAG in accordance with the terms of this Agreement.

24.20 Entire Agreement; Amendments. This Agreement and the Exhibits hereto constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede all prior verbal or written agreements and understandings between the Parties with respect to the items set forth herein. This Agreement may be amended at any time by the written agreement of SANBAG and Licensee. All amendments, changes, revisions, and discharges of this Agreement in whole or in part, and from time to time, shall be binding upon the parties despite any lack of legal consideration, so long as the same shall be in writing and executed by the parties hereto.

24.21 Additional Provisions. Those additional provisions set forth in Exhibit "D", if any, are hereby incorporated by this reference as if fully set forth herein.

Exhibit "A"

License Property

[To Be Inserted]

Exhibit "B"

INSURANCE REQUIREMENTS FOR LEASES, LICENSES, AND PERMITS

Lessee, Licensee, or Permittee shall procure and maintain, for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the use of SANBAG and MTA property hereunder by the Lessee, Licensee, or Permittee, his agents, representatives, employees or subcontractors.

Minimum Scope of Insurance (Check all applicable boxes)

Coverage shall be at least as broad as:

- ☒ Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
- ☐ Insurance Services Office Form No. CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).
- ☒ Worker's Compensation insurance as required by the State of California and Employer's Liability Insurance.
- ☐ Course of Construction insurance form providing coverage for "all risks" of loss.
- ☐ Property insurance against all risks of loss to any tenant improvements or betterments.
- ☐ Insurance Services Office Railroad Protective Liability
- ☐ Contractor's Pollution Liability with coverage for:
 - a. bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death;
 - b. property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, clean-up costs, and the loss of use of tangible property that has not been physically injured or destroyed;
 - c. defense, including costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages; and
 - d. losses caused by pollution conditions that arise from the operations of the contractor described under the scope of services of this contract.

Minimum Limits of Insurance (Check all applicable boxes)

Lessee, Licensee, or Permittee shall maintain limits no less than:

- ☒ General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage.
- ☒ If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- ☐ Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
- ☒ Employer's Liability: \$1,000,000 per accident for bodily injury or disease.
- ☐ Course of Construction: Completed value of the project.
- ☐ Property Insurance: Full replacement cost with no coinsurance penalty provision.
- ☐ Railroad Protective Liability: \$2,000,000 per occurrence. Aggregate limit shall apply separately to this project/location or the aggregate limit shall be twice the required per occurrence limit
- ☐ Contractors Pollution Liability: \$1,000,000 per occurrence \$2,000,000 annual aggregate.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by SANBAG and MTA. At the option of SANBAG and MTA, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects SANBAG and MTA, its officials and employees; or the Lessee, Licensee, or

Permittee shall procure a bond guaranteeing payment of losses, and related investigations, claim administration and defense expenses.

Exhibit "B"

Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. SANBAG and MTA, its subsidiaries, officials and employees are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of the Lessee, Licensee, or Permittee; products and completed operations of the Lessee, Licensee, or Permittee; premises owned, occupied or used by the Lessee, Licensee, or Permittee; and automobiles owned, leased, hired or borrowed by the Lessee, Licensee, or Permittee. The coverage shall contain no special limitations on the scope of protection afforded to SANBAG and MTA, its subsidiaries, officials and employees.
2. For any claims related to this project, the Lessee, Licensee, or Permittee's insurance coverage shall be primary insurance as respects SANBAG and MTA, its subsidiaries, officials and employees. Any insurance or self-insurance maintained by SANBAG and MTA, its subsidiaries, officials and employees shall be excess of the contractor's insurance and shall not contribute with it.
3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to SANBAG and MTA, its subsidiaries, officials and employees.
4. The Lessee, Licensee, or Permittee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either a party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to SANBAG and MTA.
6. Workers' Compensation and Employer's Liability policies shall contain the inclusion of the SANBAG and MTA, its Subsidiaries, officials and employees as additional insured, or provide a waiver of subrogation.

Course of construction policies shall contain the following provisions:

1. SANBAG and MTA shall be named as loss payee.
2. The insurer shall waive all rights subrogation against SANBAG and MTA.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise approved by SANBAG and MTA.

Verification of Coverage

Lessee, Licensee, or Permittee shall furnish SANBAG and MTA with original endorsements and certificates of insurance evidencing coverage required by this clause. All documents are to be signed by a person authorized by that insurer to bind coverage on its behalf. All documents are to be received and approved by the SANBAG and MTA before work commences. As an alternative, the Lessee, Licensee, or Permittee may provide complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications.

Contractors and Subcontractors

Lessee, Licensee, or Permittee shall include all contractors and subcontractors as insureds under its policies or require certificates and endorsements for each contractor and subcontractor. All coverages for contractors and subcontractors shall be subject to all of the requirements stated herein. The administration

of insurance compliance of contractors and subcontractors shall be subject to audit review by SANBAG and MTA.

Exhibit "C"

Permitted Hazardous Materials

No hazardous materials are permitted to be used or stored on License Property.

Exhibit "D"

Additional Provisions

1. **Paving and Fencing.** Licensee will pave License area with asphalt or concrete, and Licensee will construct a chain link fence (or better quality) measuring a minimum of six (6) feet high around the entire perimeter of Premises described in Exhibit "A". Licensee shall be responsible for the total expense of fencing and asphalt.
2. **Importation of Soil/Fill Dirt.** Licensee shall not bring upon or use any Import Soil on the Premises in conjunction with any purposes allowed under this Agreement, until said Import Soil has been laboratory tested by a certified hazardous waste testing laboratory and the test results have been approved by SANBAG's Environmental Consultant. Additionally, any soil currently existing on the Premises may not be spread on the Premises unless and until it is characterized as Clean Soil to the reasonable satisfaction of SANBAG's Environmental Consultant.
3. **Maintenance of Premises.** Licensee shall keep the Premises free and clear of weeds, trash, vegetation, unauthorized vehicle parking, graffiti and occupancy by transients/homeless persons or individuals. Licensee shall be fully responsible for ALL maintenance and maintenance that is required or necessary in connection with Licensee's use of Premises.
4. **Protection of Underground and Aboveground Installations.** Licensee shall ensure that it and Licensee's Parties protect, from and against any and all damage, all underground and aboveground installations and improvements, such as pipes, fiber optic lines and wires, which may be impacted by any work or any use of the Premises by Licensee.
5. **Improvements.** Both Licensee and SANBAG acknowledge that the Premises is Licensed in "AS IS" condition and any track removal, grading, paving and fencing as may be necessary or required to meet Licensee's needs will be the sole responsibility of the Licensee. No permanent structures may be constructed on the premises without SANBAG's prior written approval. Licensee will be responsible for the removal of all permitted improvements upon termination of License.
6. **Utilities.** Licensee shall pay for any and all utilities for its benefit, security and use.
7. **Warranties.** SANBAG makes no warranties as to the suitability of the location for Licensee's intended use as to zoning, visibility, traffic count or any other factors which may cause Licensee to want to License the premises.
8. **Zoning or Permitting.** Any permits, inspection fees, or costs associated with the use or maintenance of the Premise by any governmental agency, department, or organization, or any labor expenses for the installation or maintenance of any permitted improvements are the Licensee's sole responsibility. Copies of permits are to be readily available for inspection by SANBAG personnel.
9. **Signage.** NO SIGNS PERMITTED on, or along the perimeter of the Premises unless such signs were requested and approved under your original proposal and covered by the required insurance.

Licensee	SANBAG

Initials

10. **SANBAG Representative.** The Director of Transit/Rail is designated as SANBAG's Representative and is authorized to make all consents, approvals, demands, notices, including cancellation, etc., required or permitted to be made by SANBAG under the Agreement, except that the Representative may not extend the term or otherwise amend the Agreement.

- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 18

Date: September 2, 2009

Subject: Construction Contract for Interstate 215 Segments 1 and 2

Recommendation:* Award Construction Contract to the lowest responsive bidder for the Interstate 215 Segments 1 and 2 Construction.

Background: This item on the agenda provides for award of a new contract based on the competitive low bid process. Bids were opened for Interstate 215 Segments 1 and 2 construction on July 23, 2009. Interstate 215 Segments 1 and 2 are the third phase of a multi-segment widening of Interstate 215 through the City of San Bernardino. The third phase includes the reconstruction of the freeway mainline from south of Rialto Avenue to just south of Massachusetts Avenue, the addition of a carpool and general use lane in both directions as well as interchange reconfigurations at 2nd and 3rd Street, Fifth Street, Baseline Street, and the I-215/SR-259 interchange. Also included are new bridges over both the Interstate 215 Freeway and the Burlington Northern Santa Fe (BNSF) railroad tracks at Ninth Street, Baseline Street, and 16th Street, and new undercrossings at Rialto Avenue, 2nd Street and 3rd Street. The engineer's construction cost estimate is approximately \$224 million. With supplemental items, agency furnished items and contingency, the total project is estimated at \$251 million.

SANBAG received six (6) bids from prime contractors ranging from \$154,273,064 to a high of \$192,293,160. The contractors bid submittal is still under evaluation for verification of responsiveness. The evaluation is expected to be completed before the September Board meeting. In an effort to award this contract promptly SANBAG staff intends to produce a revised agenda item providing the conclusion of the bid submittal evaluation. Likewise, approval was

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Approved
Board of Directors

Date: September 2, 2009

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

given, at the July 9, 2009 Major Projects meeting, to take the award of this project directly to the August Board meeting in an effort to streamline the contract approval process. This project contains Federal stimulus funding thereby triggering a great interest in executing a contract as expeditiously as possible.

Please see "Exhibit A" for a list of the contractors and bid amounts. The bid amounts do not include supplemental, agency furnished and contingency costs. The total award amount will include the bid items, supplemental funds, and contingency funds, and will be shown as an attachment in a revised agenda item.

Financial Impact: This item is consistent with the Fiscal Year 09/10 Budget for this task. TN 83810000.

Reviewed By: Approval to take this item directly to the Board was unanimously approved by the Major Projects Committee on July 9, 2009.

Responsible Staff: Garry Cohoe, Director of Freeway Construction

Exhibit A
I-215 Segments 1 and 2 Construction Bid Results

<u>Submitted Bids: Contractor</u> (In order of bid opening)	<u>Bid Amount</u>
1. MCM Construction, Inc.	\$179,019,586.00
2. Skanska-Rados, a Joint Venture	\$154, 273,064.00
3. Balfour Beatty Infrastructure, Inc.	\$169,731,330.50
4. Flatiron West	\$156,003,754.00
5. Schimmick/Obiyashi	\$192,293,160.00
6. Atkinson	\$165,899,532.00

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- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies
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Minute Action

AGENDA ITEM: 19

Date: September 2, 2009

Subject: Budget Amendment to Task No. 70110000 – San Bernardino Valley Signal Synchronization program Tier 3 & 4 design

Recommendation:* Approve Budget Amendment to Task No. 70110000, San Bernardino Valley Signal Synchronization program, for previously approved consultant contract in the amount of \$2,587,878, for a total budget of \$2,672,499 as specified in the Financial Impact Section.

Background: In May 2009, the SANBAG Board approved Contract No. 09-179 with ADVANTEC Consulting Engineers for San Bernardino Valley Signal Synchronization program Tier 3 & 4 design in the amount of \$2,587,878. Use of federal Congestion Mitigation and Air Quality (CMAQ) funds for this work was approved by the SANBAG Board of Directors. A budget amendment is required to expend previously allocated CMAQ funds for this project. Use of these funds for this work has already been authorized by Caltrans.

Financial Impact: The current budget for TN 70110000 totals \$84,621 in Measure I Traffic Management and Environmental Enhancement (TMEE) funds for staff and related costs. This action will increase the total budget for TN7011000 by \$2,587,878 in South Coast Air Basin CMAQ funds for a total fiscal year budget of \$2,672,499.

Reviewed By: Because of the time sensitivity of initiating work on this project and previous approvals of project funding, this item is being taken directly to the SANBAG Board of Directors without prior policy committee review.

Responsible Staff: Ty Schuiling, Director of Planning and Programming

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*Approved
Board of Directors*

Date: _____

In Favor: Opposed: Abstained:

Witnessed: _____

AGENCY REPORTS

-
- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
 - San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies
-

SEPTEMBER COMMUTER RAIL REPORT

1. PATRONAGE

San Bernardino Line:

Patronage on the San Bernardino Line decreased 2% compared to last month and was down 12% from the same month last year. Preliminary August data is even lower than July with a current average of 11,807 passenger trips per weekday.

San Bernardino Line Saturday patronage was up slightly (<1%) from last month but was 22% lower than July 2008. August data-to-date shows stronger patronage than July, currently at 3,629 passenger trips per Saturday.

Sunday ridership showed a 7% decrease from last month and a 23% decrease from the same month a year ago. As of mid-August, average Sunday Ridership is up from July with a current average of 2,344 passenger trips per Sunday.

Riverside-Ontario-Los Angeles Line:

July average daily ridership on the Riverside Line decreased almost 5% from last month, and dropped 13% in a year-to-year comparison. A preview look at August data shows a 3% decrease in patronage with a current July average at 4,722 passenger trips per weekday.

Inland Empire-Orange County (IEOC) Line:

Ridership on the IEOC Line dropped almost 4% from last month and was also down 25% from the same month last year. At this point, August ridership is up slightly from July with the current daily average at 3,885 passenger trips per weekday.

Total System:

System wide, average daily ridership decreased almost 3% from June 2009. July 2009 was almost 17% slower than July 2008. Early data for August suggests an additional decline in patronage with a current average of 39,820 passenger trips per weekday.

Table 1

Average Weekday Daily Ridership*

	<u>San Bernardino</u>	<u>Riverside</u>	<u>IEOC</u>	<u>Systemwide</u>
July 2009	12,067	4,879	3,868	40,313
July 2008	13,711	5,618	5,181	48,289
% Change	- 12.0%	- 13.2%	- 25.3%	- 16.5%

* Adjusted for Holidays

Table 2

Average Weekend Ridership

	<u>San Bernardino</u> <u>Saturday</u>	<u>San Bernardino</u> <u>Sunday</u>
July 2009	3,371	2,114
July 2008	4,343	2,753
% Change	- 22.4%	- 23.2%

2. ON-TIME PERFORMANCE (arrival within 5 minutes of scheduled time)

San Bernardino Line:

On-time performance results were mixed this month for the San Bernardino Line. Inbound trains improved three percentage points while outbound trains dropped three points to finish the month 94% and 89% on time, respectively. Twenty-seven of the seventy-eight reported delays were caused by "other operations issues. Mechanical difficulties accounted for another twenty delays.

Riverside-Ontario-Los Angeles Line:

On-time performance for the Riverside Line worsened from June to July. Inbound trains dropped from 99% on time in June to 98% on time in July. Outbound trains dropped three percentage points from June and finished July on time 95% of the time. Mechanical difficulties and “other” operations issues each caused three of the eight reported delays.

Inland Empire-Orange County (IEOC) Line:

The IEOC Line also experienced mixed on –time performance results from June to July. Northbound trains picked up two percentage points to perform on time 95% of the time in July. Southbound trains, however, dropped three points, from 98% on time in June to 95% on time in July. Metrolink operations and signals/communications each accounted for five of the twenty-one reported delays.

Table 3

On Time Performance

% of weekday trains arriving w/in 5 min of scheduled time
(July 2009 vs. July 2008)

	<u>San Bernardino</u>		<u>Riverside</u>		<u>IEOC</u>	
	In	Out	In	Out	So	No
July 2009	94%	89%	98%	95%	95%	95%
July 2008	95%	96%	98%	95%	94%	91%

ADDITIONAL INFORMATION

APPOINTING/ELECTING AUTHORITY	REGIONAL COUNCIL (12:00 noon)	POLICY COMMITTEES (RC Members Serve on One Each) (Subregional Appointments) (County Commissions Appoint One to TCC) (10:00 a.m.)		
		Community, Economic, and Human Development	Energy and Environment	Transportation and Communications
District 6 (Grand Terrace, Colton, Loma Linda, Redlands, Yucaipa)	P. Gilbreath			P. Gilbreath
District 7 (San Bernardino, Highland)	L. McCallon			
District 8 (Rialto, Fontana)	D. Robertson	L. McCallon		
District 9 (Rancho Cucamonga, Upland, Montclair)	P. Eaton	D. Robertson		
District 10 (Chino, Chino Hills, Ontario)	G. Duncan		P. Eaton	G. Duncan
District 11 (Bartow, Big Bear, Needles, Twentynine Palms, Yucca Valley)	B. Jahn	B. Jahn		
District 65 (Adelanto, Apple Valley, Hesperia, Victorville)	G. Coleman			
San Bernardino County	G. Ovitt			G. Ovitt
SANBAG Acting as County Transportation Commission	K. Chastain			K. Chastain
SANBAG Subregional Appointees*		B. Cortes	Vacant (J. Harrison)	Vacant (P. Leon)
*One appointee to each policy committee for a total of three appointees per subregion, plus one additional appointee for every SCAG District over three in the subregion. SANBAG has a total of seven subregional appointees to the policy committees.		G. Norton-Perry Vacant (J. Mitchell)	E. Scott	J. Pomierski

143 Rules of Appointment

1. SANBAG policy stipulates that all SANBAG appointees be SANBAG Board Members.
2. SCAG President appoints Regional Council members to Standing and Policy Committees.

Terms of Appointment

Terms of appointment for Regional Council members representing odd numbered districts expire immediately following the SCAG General Assembly in April of odd numbered years. Terms of appointment for Regional Council members representing even numbered districts expire immediately following the SCAG General Assembly in May of even numbered years. SANBAG appointments to SCAG Policy Committees are for a term from May through the next regular SCAG general assembly of the following year.

Stipend

SCAG provides Regional Council members \$100 per day for a maximum of four meetings per month, plus mileage. A stipend for the fifth meeting per month may be received on approval by SCAG's Executive Director. SCAG also provides subregional appointees representing SANBAG on SCAG Policy Committees \$70 per meeting.

Meeting Information

The regular meetings of SCAG Regional Council, Standing Committees, and Policy Committees are on the first Thursday of each month at the SCAG Offices located at 818 W. Seventh Street, Los Angeles: 10:00 a.m., Policy Committees 12:00 noon, Regional Council

Policy Committees

Community, Economic, and Human Development: Provides policy recommendations to the Regional Council on subjects of housing, land use, resource, economic, community development, infrastructure, employment, and regional disaster preparedness issues. Reviews and recommends to the Planning Committee revisions to the Housing, Economy, Growth Management, Human Resources, and Finance Chapters of the Regional Comprehensive Plan and Guide.

Energy and Environment: Acts as the policy advisory committee to the Regional Council on environmental issues, including air and water, hazardous, solid waste management, natural resources conservation, and energy conservation. Reviews the Environmental Impact Report of the Regional Comprehensive Plan and Guide. Provides recommendations to the Planning Committee on state and federal legislative proposals and administrative guidelines affecting environmental quality, resource conservation,

Transportation and Communications: Acts as the policy advisory committee to the Regional Council on all regional matters pertaining to the movement of goods and people on land, water, and air. Reviews and recommends to the Regional Council all major utility development plans. Addresses the location, size, or capacity, timing, and impact of facilities.

SANBAG Policy Committee Membership

COMMITTEE	PURPOSE	MEMBERSHIP	TERMS
Administrative Committee SANBAG President, Vice President, and Immediate Past President 3 East Valley (2 City, 1 County) 3 West Valley (2 City, 1 County) 3 Mt/Desert (2 City, 1 County) City members shall be SANBAG Board Members elected by caucus of city SANBAG Board Members within the subarea. Supervisors collectively select their representatives. The SANBAG Vice President shall serve as Chair of the Administrative Committee.	Makes recommendations to Board of Directors and: (1) Provides general policy oversight which spans the multiple program responsibilities of the organization and maintains the comprehensive organization integrity; (2) Provides policy direction with respect to administrative issues, policies, budget, finance, audit, and personnel issues for the organization; (3) Serves as policy review committee for any program area that lacks active policy committee oversight. Committee has authority to approve contracts of up to \$25,000 with Board of Directors ratification to follow.	Brad Mitzelfelt, Supervisor, Vice President (Chair) Paul Eaton, Montclair, President (Vice Chair) Gary Ovitt, Supervisor, Past President Paul Biane, Supervisor Pat Gilbreath, Grand Terrace Josie Gonzales, Supervisor Mike Leonard, Hesperia Brad Mitzelfelt, Supervisor Pat Morris, San Bernardino Gwenn Norton-Perry, Chino Hills Rick Roelle, Apple Valley Dennis Yates, Chino	6/30/2010 6/30/2010 6/30/2010 12/31/2009 12/31/2010 12/31/2009 12/31/2010 12/31/2009 12/31/2009 12/31/2009 12/31/2009 12/31/2010
Commuter Rail Committee Nine Valley-elected officials, four of who shall be the Southern California Regional Rail Authority primary (*) and alternate (**) members. The terms of appointments for SCRRA members and alternates shall be concurrent with their term on SCRRA. The four remaining members shall be SANBAG Board Members appointed by the SANBAG President for two-year terms.	Provides policy guidance and recommendations to the SANBAG Board of Directors and Southern California Regional Rail Authority delegates with respect to commuter rail service in San Bernardino County. * SCRRA Primary Member ** SCRRA Alternate Member	Pat Gilbreath, Redlands** (Chair) Pat Morris, San Bernardino* (Vice Chair) Kelly Chastain, Colton Bea Cortes, Grand Terrace Neil Derry, Supervisor Paul Eaton, Montclair* Larry McCallon, Highland John Pomierski, Upland Diane Williams, Rancho Cucamonga**	Indeterminate (6/30/2010) Indeterminate (6/30/2010) 12/31/2009 12/31/2010 12/31/2010 Indeterminate 12/31/2010 12/31/2009 Indeterminate
Mountain/Desert Committee Membership consists of SANBAG Board Members from each Mountain/Desert jurisdiction and County Supervisors representing the First and Third Districts.	Provides ongoing policy level oversight related to the full array of SANBAG responsibilities as they pertain specifically to the Mountain/Desert subregion. The Committee also meets as the Mountain/Desert Measure I Committee as it carries out responsibilities for Measure I Mountain/Desert Expenditure Plan.	Bill Jahn, Big Bear Lake (Chair) Mike Leonard, Hesperia (Vice Chair) Neil Derry, Supervisor Jim Harris, Twentynine Palms Ryan McEachron, Victorville Julie McIntyre, Barstow Brad Mitzelfelt, Supervisor William Neeb, Yucca Valley Trinidad Perez, Adelanto Rick Roelle, Apple Valley Jeff Williams, Needles	Indeterminate (6/30/2010) Indeterminate (6/30/2010) Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate

Page 2 of 3

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Policy Committee Meeting Times

Administrative Committee	Second Wednesday, 9:00 a.m., SANBAG Offices
Commuter Rail Committee	Third Thursday every other month following the SANBAG Board meeting (Odd Months), 12:00 noon, SANBAG Offices
Major Projects Committee	Second Thursday following the SANBAG Board meeting, 9:00 a.m., SANBAG Offices
Mountain/Desert Committee	Third Friday, 9:00 a.m., Apple Valley
Plans & Programs Committee	Third Wednesday, 12:00 noon, SANBAG Offices

SANBAG Policy Committee Membership

SANBAG Ad Hoc Committees

COMMITTEE	PURPOSE	MEMBERSHIP
<p>Audit Subcommittee of the Administrative Committee In November 2008, the Board approved the creation of an Audit Subcommittee of the Administrative Committee to strengthen the financial oversight function of the Board.</p> <p>Additional SANBAG Board Members may be appointed annually at the discretion of the Board President.</p>	<p>The responsibilities of the Audit Subcommittee shall be to:</p> <ul style="list-style-type: none"> • Provide a direct contact between the independent auditor and the Board of Directors before, during and after the annual audit. • Work with the auditor and SANBAG staff on reviewing and implementing practices and controls identified in the annual audit. 	<p>Audit Subcommittee (for FY 2008-2009 Audit)</p> <ul style="list-style-type: none"> - SANBAG President – Paul Eaton, Montclair - Vice President – Brad Mitzelfelt, Supervisor - Immediate Past President – Gary Ovitt, Supervisor - Presidential Appointment – Pat Gilbreath, Redlands
<p>Ad Hoc Committee to Review Council of Government Roles In June 2006, the SANBAG President appointed the committee.</p>	<p>Reviews SANBAG activities and Board Member requests related to SANBAG's role as a Council of Governments.</p>	<p>Kelly Chastain, Colton (Chair)</p> <p>Dennis Hansberger, SBCO, representing East Valley and Mountain/Desert</p> <p>Josie Gonzales, SBCO, representing the East Valley</p> <p>John Pomierski, Upland, representing West Valley and recognizing his position as Major Projects Committee Chair</p> <p>Pat Morris, San Bernardino, representing the East Valley</p> <p>Paul Eaton, Montclair, representing the West Valley and recognizing his position as Plans & Programs Committee Chair</p> <p>Vacant - Jim Lindley, Hesperia, representing Mountain/Desert and recognizing his position as Mountain/Desert Committee Vice Chair.</p>
<p>Ad Hoc Committee on Litigation with San Bernardino County Flood Control District In January 2007, the SANBAG President was authorized to appoint an ad hoc review committee of SANBAG Board Members who do not represent local jurisdictions party to the San Bernardino County Flood Control District vs. SANBAG litigation relative to the Colonies Development.</p> <p>In April 2008, the role of this committee was expanded to include the Cactus Basin litigation.</p>	<p>Reviews and provides guidance on litigation with San Bernardino County Flood Control District regarding the Colonies Development and the Cactus Basin in Rialto.</p>	<p>Pat Morris, San Bernardino, Chair</p> <p>Mark Nuaimi, Fontana</p> <p>Pat Gilbreath, Redlands</p> <p>Richard Riddell, Yucaipa</p> <p>Larry McCallon, Highland</p>

This list provides information on acronyms commonly used by transportation planning professionals. This information is provided in an effort to assist SANBAG Board Members and partners as they participate in deliberations at SANBAG Board meetings. While a complete list of all acronyms which may arise at any given time is not possible, this list attempts to provide the most commonly-used terms. SANBAG staff makes every effort to minimize use of acronyms to ensure good communication and understanding of complex transportation processes.

AB	Assembly Bill
ACE	Alameda Corridor East
ACT	Association for Commuter Transportation
ADA	Americans with Disabilities Act
ADT	Average Daily Traffic
APTA	American Public Transportation Association
AQMP	Air Quality Management Plan
ARRA	American Recovery and Reinvestment Act
ATMIS	Advanced Transportation Management Information Systems
BAT	Barstow Area Transit
CALACT	California Association for Coordination Transportation
CALCOG	California Association of Councils of Governments
CALSAFE	California Committee for Service Authorities for Freeway Emergencies
CARB	California Air Resources Board
CEQA	California Environmental Quality Act
CMAQ	Congestion Mitigation and Air Quality
CMIA	Corridor Mobility Improvement Account
CMP	Congestion Management Program
CNG	Compressed Natural Gas
COG	Council of Governments
CSAC	California State Association of Counties
CTA	California Transit Association
CTC	California Transportation Commission
CTC	County Transportation Commission
CTP	Comprehensive Transportation Plan
DBE	Disadvantaged Business Enterprise
DEMO	Federal Demonstration Funds
DOT	Department of Transportation
EA	Environmental Assessment
E&D	Elderly and Disabled
E&H	Elderly and Handicapped
EIR	Environmental Impact Report (California)
EIS	Environmental Impact Statement (Federal)
EPA	Environmental Protection Agency
FHWA	Federal Highway Administration
FSP	Freeway Service Patrol
FTA	Federal Transit Administration
FTIP	Federal Transportation Improvement Program
GFOA	Government Finance Officers Association
GIS	Geographic Information Systems
HOV	High-Occupancy Vehicle
ICTC	Interstate Clean Transportation Corridor
IEEP	Inland Empire Economic Partnership
ISTEA	Intermodal Surface Transportation Efficiency Act of 1991
IIP/ITIP	Interregional Transportation Improvement Program
ITS	Intelligent Transportation Systems
IVDA	Inland Valley Development Agency
JARC	Job Access Reverse Commute
LACMTA	Los Angeles County Metropolitan Transportation Authority
LNG	Liquefied Natural Gas
LTF	Local Transportation Funds
MAGLEV	Magnetic Levitation

MARTA	Mountain Area Regional Transportation Authority
MBTA	Morongo Basin Transit Authority
MDAB	Mojave Desert Air Basin
MDAQMD	Mojave Desert Air Quality Management District
MOU	Memorandum of Understanding
MPO	Metropolitan Planning Organization
MSRC	Mobile Source Air Pollution Reduction Review Committee
NAT	Needles Area Transit
NEPA	National Environmental Policy Act
OA	Obligation Authority
OCTA	Orange County Transportation Authority
PA&ED	Project Approval and Environmental Document
PASTACC	Public and Specialized Transportation Advisory and Coordinating Council
PDT	Project Development Team
PNRS	Projects of National and Regional Significance
PPM	Planning, Programming and Monitoring Funds
PSE	Plans, Specifications and Estimates
PSR	Project Study Report
PTA	Public Transportation Account
PTC	Positive Train Control
PTMISEA	Public Transportation Modernization, Improvement and Service Enhancement Account
PUC	Public Utilities Commission
RCTC	Riverside County Transportation Commission
RDA	Redevelopment Agency
RFP	Request for Proposal
RIP	Regional Improvement Program
RSTIS	Regionally Significant Transportation Investment Study
RTIP	Regional Transportation Improvement Program
RTP	Regional Transportation Plan
RTPA	Regional Transportation Planning Agencies
SB	Senate Bill
SAFE	Service Authority for Freeway Emergencies
SAFETEA-LU	Safe Accountable Flexible Efficient Transportation Equity Act – A Legacy for Users
SCAB	South Coast Air Basin
SCAG	Southern California Association of Governments
SCAQMD	South Coast Air Quality Management District
SCRRA	Southern California Regional Rail Authority
SHA	State Highway Account
SHOPP	State Highway Operations and Protection Program
SOV	Single-Occupant Vehicle
SRTP	Short Range Transit Plan
STAF	State Transit Assistance Funds
STIP	State Transportation Improvement Program
STP	Surface Transportation Program
TAC	Technical Advisory Committee
TCIF	Trade Corridor Improvement Fund
TCM	Transportation Control Measure
TCRP	Traffic Congestion Relief Program
TDA	Transportation Development Act
TEA	Transportation Enhancement Activities
TEA-21	Transportation Equity Act for the 21 st Century
TMC	Transportation Management Center
TMEE	Traffic Management and Environmental Enhancement
TSM	Transportation Systems Management
TSSDRA	Transit System Safety, Security and Disaster Response Account
USFWS	United States Fish and Wildlife Service
VCTC	Ventura County Transportation Commission
VVTA	Victor Valley Transit Authority
WRCOG	Western Riverside Council of Governments

San Bernardino Associated Governments



MISSION STATEMENT

To enhance the quality of life for all residents,
San Bernardino Associated Governments
(SANBAG) will:

- Improve cooperative regional planning
- Develop an accessible, efficient,
multi-modal transportation system
- Strengthen economic development
efforts
- Exert leadership in creative problem
solving

To successfully accomplish this mission,
SANBAG will foster enhanced relationships
among all of its stakeholders while adding
to the value of local governments.

Approved June 2, 1993
Reaffirmed March 6, 1996